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P R O C E E D I N G S c #

O F A

General COURT MARTIAL,

Held at ROCHESTER, May, 1764,

U P O N T H E

T R I A L

O F

Captain WILLIAM DOUGLAS,

A N D T H E

Captains COCKBURN, PERKINS, and HAYES,

Of His Majesty's Marine Forces.

T O G E T H E R W I T H

- o The Measures taken against Captain Douglas, immediately
after he was ACQUITTED with HONOUR;

A L S O

The LETTERS, his MEMORIAL,

And other Papers annexed.

L O N D O N.

Printed for J. MILLAN, near Whitehall,

MDCCCLXVI.

Rec. Jan. 28, 1902.

P R E F A C E.

CAPTAIN *Douglas* arrived in *England* in *May*, 1763, having been constantly employed on Service abroad, in the Marine Forces, during the whole War, by which his Health was greatly impaired. In *July* he applied to the Admiralty for Leave of Absence, to re-establish his Health, and on account of his private Affairs. Their Lordships, from Time to Time, gave him four Months Leave; but before the Expiration of that Time, he found himself so much worse, that he was confined to the House, and mostly to his Bed: It being Time of Peace, it was natural for an Officer to suppose, that he would have met with that Indulgence, in Leave of Absence, that his Health required; and, as Necessity obliged him, he applied for a farther Continuance of his Leave; but before he heard of the Effect of that Application, he received an Order, dated the 15th of *November*, 1763, in the Name of the Commanding Officer (before his

a

Leave

Leave of Absence from their Lordships expired) to repair immediately to Head-Quarters, *alleging*, he was the first Captain for Sea Duty. This Order *gave rise* to a Correspondence between Col. *Mackenzie* and Captain *Douglas*; in which, on the one Part, there were *repeated Orders* for Captain *Douglas* to repair to Quarters, *though prevented by Sickness*; and, on the other Hand, Captain *Douglas's Answers* to the said most extraordinary Orders; whereby the Affair was drawing to a *proper Explanation*, when, Captain *Douglas* finding his Leave of Absence *retracted*, and that he was *peremptorily* ordered to Quarters by the Secretary of the Admiralty's Letter of the 30th of *November*, 1763, (though his Letters of the 12th and 17th of the same Month were in the Secretary's Possession) he, in his own Defence, transmitted a Certificate, from his Physician, and Surgeon-Apothecary, to the Commanding Officer at Quarters; but no Leave of Absence being *granted*, he was reduced to the Necessity of remaining absent, under the Protection of his said Certificate.

March 8, 1764, Captain *Douglas* received an Order from the Commanding Officer (in Consequence of the Secretary of the Admiralty's Letter of the 3d) to go *Passenger* to the *West-Indies*, to be put on board a Ship stationed at *Jamaica*; which he could not but think a particular Hardship, as the ordinary Course of Duty would have led him to expect Orders to embark with a Detachment *from Chatham*: Captain *Douglas's* Letter, of the 9th of *March*, is the Answer to that Order; and, without having

ving any Notice taken of his said Letter, he found himself attacked, by the unprecedented Remonstrance of the Captains *Cockburn*, *Perkins*, and *Hayes*, with whom he had no Acquaintance, and some of whom he had never seen. It afterwards appeared, that on the 11th of the same Month, the said Remonstrance was transmitted to their Lordships, with Captain *Douglas's* Letter of the 9th, by Lieut. Col. *Mackenzie*, then Commanding Officer, who had also transmitted Captain *Douglas's* Letter of the 17th of *November*, 1763, and his Certificate, to the Admiralty: And it farther appeared on the Trial, that from the Time of the Certificate, until the 1st of *April* following, Captain *Douglas* was returned, Absent from Quarters *without Leave*, without giving in the Returns, *the Reason of his Absence*.

The aforesaid Remonstrance reduced Captain *Douglas* to a Necessity of demanding a General Court Martial, of which the following Sheets are the Proceedings; together with the Measures taken against Captain *Douglas*, immediately after he was ACQUITTED with HONOUR; also the Letters, his Memorial, and other authentick Papers.

As these Proceedings of the General Court Martial are exactly the Copy that has been delivered on Captain *Douglas's* Application (according to Act of Parliament,) it may be proper to observe, that, on a Trial before a Court Martial, many Things occur, *vivâ voce*, and otherwise appear, which are not minuted, nor can well be attended to for that Purpose, though all *tend to direct* the Justice of the Court:

· Court : It therefore becomes the more necessary to give some Notes with these Proceedings and Papers, that they may be more *clearly* understood : And while the authentick Papers are given as the most candid Method of Publication, it is left to the Disinterested to draw their own Conclusions upon the Whole, after a *due* Consideration of the *Facts* proved before the Court.

The Intent of this Publication, is *effectually* to prevent Misrepresentations, which every Person, in *such* Circumstances, has an undoubted *Right* to do, in his *own* Vindication.

It may not be improper to remind the Reader, that Courts Martial were instituted by the Wisdom of the Legislature, *not only* to examine into the Conduct of Military Officers, and empowered to punish those who should appear *to them* to be guilty of a Breach of their Duty ; but were also *meant to protect* such Officers who should appear to have done their Duty, as required by the Rules and Discipline of War ; and, by their Sentence, *to remove* any Impression made to their Prejudice, by Misrepresentations : And, lastly, Courts Martial were intended, *intirely to check* Tyranny and Oppression.

It is necessary to observe farther, that these Proceedings would have been printed before ; but many Reasons occurred, after the Trial, (some of which appear) for their having been delayed : Besides his having been *deprived*, in an unprecedented Manner, of HALF of his PAY, on account of *his Illness*, immediately after he was ACQUITTED with HONOUR, Cap-
tain

tain *Douglas* has been involved in a considerable Expence by the Court Martial, &c. and many other Inconveniencies, needless to mention; and for which no Redress has yet been obtained.

It will now appear (notwithstanding Reports to the contrary) that the Measures taken by Captain *Douglas*, after the Court Martial, were as necessary for his *own Defence*, as they were to obtain *such* Redress as he had *just Reason* to expect.

August, 1766.

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IT is necessary to give the Copy of the following Papers, *prefixed* to the Proceedings of the General Court-Martial, *viz.*

E X A C T C O P Y.

A Remonstrance from the Captains of Marines now at Quarters to the Lords of the Admiralty.

WHEREAS a Letter dated the 9th Instant, from Captn. *W^m. Douglass*, not attending his Duty on account of his Indisposition, with the *extracts* of his Letters, at our Request given us, are of Opinion that *it is* a downright Equivication of his Duty, he being *favoured* with four Months Leave of Absence, thought proper in taking the Liberty of three Months more, *contrary* to their Lordships Order, as we look upon it, that every Captain here is to do the Duty according to his Turn, we cannot, in Justice to ourselves, and every Officer in the Corp, neglect remonstrating this our Request to their Lordships, that Captⁿ. *W^m. Douglass*, may be ordered on his proper Turn of Duty, according to their Lordships Order, dated the *3d Instant**; the under-mentioned Officers has been in the Service from 17 to 20 Years, and never neglected their Duty when ordered; why Captⁿ. *Douglass* should endeavour to impose upon them they cannot account for, therefore leaves to their Lordships determination.

Signed { GEORGE COCKBURN,
JON. HAYES.

* *Vide* Letter No. 21 annexed.

“ Captain *Perkins* is the other Captain signed the Remonstrance to the Lords of the Admiralty. Being not at his Lodgings at this Juncture, to sign the inclosed, gives you this early Notice.”——

This Notice was dated the 12th of *March*, and received by Captain *Douglas* on the 13th at Night. The said Remonstrance having been sent by Post on the 11th to the *Admiralty*; therefore the Remonstrance being *then* before their Lordships, occasioned Captain *Douglas*’s Letter of the 14th, as follows, *viz.*

London, March 14, 1764.

SIR,

BE pleased to lay before my Lords Commissioners, the inclosed Copy of a Remonstrance (a Duplicate of which I have sent me from Quarters) made to their Lordships against me by Captain *George Cockburn*, Captain *John Hayes*, and as they assert by Captain *Perkins*, of that Division of Marines; as it contains an Accusation, false, malicious, and highly injurious of a Reputation I have been at some Pains to establish during a Service of twenty Years; and as the said Captains have rashly made a public Matter of it, without giving themselves Time *privately* to inquire into the Merits of the Cause, I am under the Necessity in mere Self-Defence, hereby to desire, that their Lordships may order a General Court-Martial to try me, that I may clear my Character of their false Imputation; and the above-named Captain *George Cockburn*, Captain *John Hayes*, and Captain *Perkins*, if he has signed the unprecedented Remonstrance in Question, may by the same General Court-Martial be tried, for having falsely and maliciously accused me, and thereby behaving † themselves, in a manner unbecoming the Character of Officers and Gentlemen.

I am, Sir,

Your most obedient humble Servant,

On his Majesty’s Service.

WILL. DOUGLAS.

To *Philip Stephens*, Esq;

On the 16th Captain *Douglas* received a Message, that “ their Lordships desired to know when he would be able to go to Quarters, and they would order the Court-Martial accordingly.”

† Behaved.

Captain

Captain *Douglas* returned for Answer, " that he would acquaint their Lordships by their Secretary to-morrow, after he had consulted his Physician."

SIR,

IN Answer to my Lords Commissioners obliging Message of yesterday (by Mr. *Rogers*) I hereby acquaint you, I likely will be able to get myself conveyed to Quarters within a Fortnight, and any Time their Lordships pleases after that will be convenient for me to have the Court-Martial, which I shall at *any risk* attend to their Appointment, in order to clear myself from an *unjust* Imputation, laid in so extraordinary a Manner against me, by Persons I am not acquainted with.

I am Sir,

Your most obedient humble Servant,

London, March 17, 1764.

WILL. DOUGLAS.

To Philip Stephens, Esq;

Rochester, April 8, 1764.

SIR,

BE pleased to acquaint my Lords Commissioners, that I arrived on *Sunday* last at Quarters, tho' much indisposed, to attend the General Court-Martial, desired by my Letter of the 14th of last Month, and to be ordered (as signified to me by Message from their Lordships on the 16th after) on my Arrival at Quarters.

That, as I find no Orders has yet been received by the Commanding Officer, I am therefore under the Necessity to desire, that their Lordships may give the Order for holding the said General Court-Martial, that Justice may be done, agreeable to the Rules and Discipline of War.

I also desire you to acquaint my Lords Commissioners, that the Commanding Officer *having put* Captain *George Cockburn* in Orders to march with a Detachment on Board his Majesty's Ship the *Guernsey*, and that Ship under Orders for Sea, I move their Lordships to give the necessary Orders, that Captain *Cockburn* be detained from leaving Quarters, until the determination of the General Court-Martial.

I am Sir, &c.

On his Majesty's Service.

W. DOUGLAS.

To Philip Stephens, Esq;

B 2

Admiralty-

Admiralty-Office, April 14, 1764.

SIR,

I N Return to your Letter of the 8th Instant repeating your Request that a Court-Martial may be assembled for the Trial of yourself, and the Captains *Cockburn*, *Perkins*, and *Hayes*, and that Captain *Cockburn* may not be embarked till such Court-Martial be over; I am commanded by their Lordships to acquaint you, that Orders will be given the Beginning of next Week for assembling a General Court-Martial for the Purposes you desire, and that in the mean time the Commanding Officer is directed not to embark Captain *Cockburn*.

I am Sir,

Your most humble Servant,

PH. STEPHENS.

To Captain *William Douglas*,
Chatham.

SIR,

AS I can't come to the orderly Room, I desire you'll order the Adjutant to bring me the Roster for Sea Duty, and the orderly Book of this Division, from the 1st of *May* last, as it appears to me highly necessary that I should be informed of all Things relating to the Service since that Period, to this Time.

I am Sir, &c.

Rocheſter, April 16, 1764.

W. DOUGLAS.

To Colonel *Mackenzie*, commanding
the Marine Forces at *Chatham*.

SIR,

I Desire you'll direct, that my Letter of the 12th *November* 1763, to Commanding Officer, applying for a Prolongation of Leave from the *Admiralty*, and also my Letter of *November* 17th said Month, to the Adjutant, in Answer to his Letter by Commanding Officer's Orders of the 15th, both directed on his Majesty's Service, together with the Certificate from the Physician and Surgeon, dated *December* 1, may be ready to be produced at the General Court-Martial when I call for them.

I am Sir, &c.

— *April* 1764.

W. DOUGLAS.

To Colonel *Bendyshe*, Commanding Officer
of the Marine Forces, *Chatham*.

SIR,

SIR,

BE pleased to acquaint my Lords Commissioners, that I desire they may give Directions, that the Copy of the Duplicate of the Remonstrance made by the three Captains against me, which was sent inclosed with my Letter of *March 14* to their Lordships, may be transmitted to the Judge Advocate of the General Court-Martial.

I also desire that my Letter of *November* the 12th to Colonel *Bendyshe*, desiring a Prolongation of Leave; and my Letter of *November 17*, directed on his Majesty's Service to the Adjutant of this Division, in Answer to his of the 15th, by Orders of Commanding Officer, and transmitted to their Lordships, may be sent to the Judge Advocate at the same Time*.

I am, &c.

— April 1764.

On his Majesty's Service.

W. DOUGLAS.

To *Philip Stephens*, Esq;

May 2d, Captain *Douglas* applied to the Commanding Officer to have the Book of Public Letters relating to the Service brought to his Lodgings, as he could not go to the orderly Room—and they were brought accordingly.

Rochester, May 2, 1764.

SIR,

WHEREAS I observe in the Orders of yesterday, that several Officers of the Corps are not named in their proper Tour, to sit as Members of the General Court-Martial; I hereby move that the Members of the said General Court-Martial may be taken from Quarters, and the three Guardships by Seniority of Commission, agreeable to the Rules of Military Discipline, unless legal Objections be made to particular Officers, with which I desire to be acquainted.

I am Sir, &c.

W. DOUGLAS.

To Colonel *Bendyshe*,
commanding Marine
Forces at *Chatham*.

Note. Their Lordships had directed the Officers to be discharged out of the Guardships, to sit at the Court-Martial.

* The above Papers were sent to the Commanding Officer accordingly.

Chatham, Orderly-Room, May 3, 1764.

SIR,

IN answer to your Letter of last Night, wherein you observe, that the Members for the Court-Martial are not taken in their proper Tour; I am to acquaint you, that by Letters of the 27th of last Month, from the Captains *Cockburn*, *Perkins*, and *Hayes*; Lieutenant-Colonel *Mackenzie*, † Major *Claud Hamilton*, and Captain *Martin*, are not put in their Tour, they being required as Evidences, and are summoned as such: Captain *Davidson* * and myself being of Opinion, that to be Evidences and Members at the same Time is incompatible.

In regard to the Officers on Board the Guardships, the Service requires Lieutenant *Stretch* should continue with his Command, as the only Marine Officer left with Fifty Men at the Distance of *Sheerness*.

I am Sir, &c.

RICH^d. BENDYSHE.

To Captain *William Douglas*,
Rochester.

† Note, Major *Hamilton* and Captain *Martin* were not examined.
* Judge-Advocate.

C O P Y W A R R A N T.

*By the Commissioners for executing the Office of Lord
High Admiral of Great-Britain and Ireland, &c.*

WHEREAS We directed Captain *William Douglas*, by Our Secretary's Letter dated the 30th of November last, to repair immediately to his Head-Quarters at *Chatham*, notwithstanding any former Leave; which Directions he neglected to comply with, and as an Excuse for such Neglect, transmitted to the Commanding Officer of the Marines at *Chatham*, a Certificate from a Physician and Surgeon, that he was so much indisposed, that it would be attended with great Danger to his Health or Life, to be exposed to the open Air, for at least some Time.

And

And Lieutenant-Colonel *Mackenzie* having, by his Letter dated the 11th of last Month, informed us, that, in consequence of our Direction for a Captain of Marines to be sent on Board the *Tartar* at *Portsmouth*, in order to be carried to *Jamaica* to serve on Board the *Prince Edward*; he had ordered Captain *William Douglas* (the first then on the Roster for Sea-Duty) to repair on Board the *Tartar* accordingly; in return to which Captain *Douglas* also (by Letter of the 9th of *March*) alledged his ill State of Health, as a Reason for his not complying therewith, though it appears by extracts of Letters he wrote to Colonel *Mackenzie* in *November* and *December*, that he had desired to be sent on Board on his proper Turn.

And Captain *Douglas* having been put down in the Returns made from the *Chatham* Head-Quarters, as absent without Leave, from the 18th of *November* last to the first of this Month; and three Captains of the Division having presented a Remonstrance, setting forth, that they look upon what is contained in his Letter of the 9th of *March*, (in which he alledges his ill State of Health as a Reason for his not complying with the Orders he had received) and in others of his Letters, to be downright Equivocations of his Duty.

And whereas Captain *Douglas* has, upon the said Remonstrance, requested, that a General Court-Martial may be held, to try him, that he may clear his Character.

And We, moreover, judging it very necessary, that an Enquiry should be made into the Reasons of Captain *Douglas's* Absence from Quarters without Leave, and of his Disobedience to Orders, and that he should be tried for such Absence and Disobedience; We send you herewith a Copy of Our Secretary's afore-mentioned Letter of the 30th of *November* last, together with the Certificate from a Physician and Surgeon of Captain *Douglas's* ill State of Health; Colonel *Mackenzie's* Letter of the eleventh of last Month, with extracts of Letters wrote to him in *November* and *December* last by Captain *Douglas*; and Captain *Douglas's* Letter to Colonel *Mackenzie* of the ninth of last Month; and also the Remonstrance of the three Captains; all which are before-mentioned; and you are hereby required and directed to assemble a General Court-Martial, to inquire into, and to try the said Captain *William Douglas*, for his said Absence and Disobedience accordingly.

And whereas Captain *Douglas* has asserted, that the afore-mentioned Remonstrance from three Captains, contains a false and malicious Accusation, and requested, that Captain *George Cockburn*, Captain *John Perkins*, and Captain *John*

Hayes, (the three Captains who signed it) may be tried at the same General Court-Martial, for having falsely and maliciously accused him, and thereby behaved themselves in a Manner unbecoming the Character of Officers and Gentlemen; We send you herewith Captain *Douglas's* Letter, dated the fourteenth of last Month, containing his said Assertion and Request, and do hereby require the General Court-Martial, which shall be assembled for the Trial of Captain *Douglas*, to try also the said Captains *George Cockburn*, *John Perkins*, and *John Hayes*, agreeably to Captain *Douglas's* Request.

Given under Our Hands the 19th of *April* 1764.

To the Commanding Field-
Officer of the Marines at
Chatham.

By Command of their Lord-
ships,

(Signed) PHP. STEPHENS.

Signed { EGMONT,
G. HAY,
CARYSFORT,
HOWE,
DIGBY,
THO^r. PITT.

PROCEEDINGS
OF A
GENERAL COURT-MARTIAL
OF HIS
MAJESTY'S MARINE FORCES,
HELD AT
Rochester, the 7th of May, 1764.

AT A GENERAL COURT-MARTIAL held at the City of *Rochester*, on *Monday* the 7th, and continued by Adjournments to *Thursday* the 10th of *May* 1764, by Virtue of a Warrant from the Right Honourable the Lords Commissioners of the Admiralty, bearing Date the 19th of *April* 1764.

COLONEL RICHARD BENDYSHE, PRESIDENT.

Majors { THOMAS SHELDON.
HENRY SMITH.

Captains { ROBERT DOUGLAS.
EDWARD KYFFIN.
GARDINER BULSTRODE.
SIR BLAXTON CONYERS.
JOHN BURT.

First Lieutenants { WILLIAM FORSTER.
THOMAS TIMINS.
DANIEL WATSON.
ROBERT CODDINGTON.
DAVID JOHNSTON.

Captain WILLIAM DAVIDSON, JUDGE-ADVOCATE.

THE

THE MEMBERS being met, and duly sworn, (the Judge Advocate being also sworn, and prosecuting in his Majesty's Name,)

Captain *William Douglas* of the *Chatham* Division of Marines, came Prisoner before the Court, and the following Charge was exhibited against him, viz. *

“ WHEREAS the Lords Commissioners of the Admiralty, directed Captain *William Douglas* by their Secretary's Letter, dated the 30th of *November* last, to repair immediately to his Head-Quarters at *Chatham* — notwithstanding any former Leave; which Directions he neglected to comply with, and as an Excuse for such Neglect, transmitted to the Commanding Officer of the Marines at *Chatham*, a Certificate from a Physician and Surgeon, that he was so much indisposed, that it would be attended with great Danger to his Health or Life, to be exposed to the open Air, for at least some Time;

“ And Lieutenant-Colonel *Mackenzie* having, by his Letter dated the 11th of *March* last, informed their Lordships, that, in consequence of their Direction for a Captain of Marines to be sent on Board the *Tartar* at *Portsmouth*, in order to be carried to *Jamaica*, to serve on Board the *Prince Edward*; he had ordered Captain *William Douglas*, (the first then on the Roster for Sea-Duty) to repair on Board the *Tartar* accordingly, in return to which Captain *Douglas* also (by Letter of the 9th of *March*) alledged his ill State of Health as a Reason for not complying therewith, though it appears, by extracts of his Letters wrote to Colonel *Mackenzie* in *November* and *December* last, that he had desired to be sent on Board in his proper Turn;

“ And Captain *Douglas* having been put down in the Returns made from the *Chatham* Head-Quarters, as absent without Leave from the 18th of *November* last to the 1st of last Month;

“ And three Captains of the Division having presented a Remonstrance to their Lordships, setting forth, that they look upon what is contained in his Letter of the 9th of *March*, (in which he alledges his ill State of Health as a Reason for his not complying with the Orders he had received) and in others of his Letters, to be downright Equivocations of his Duty;

* Captain *Douglas* desired Permission of the Court to be allowed to sit, being ill, and not able to stand, which was granted.

“ And whereas Captain *Douglas* has, upon the same Remonstrance, requested, that a General Court-Martial may be held, to try him, that he may clear his Character †;

“ And their Lordships, moreover, judging it very necessary, that an Enquiry should be made into *the Reasons* of Captain *Douglas*’s Absence from Quarters *without Leave*, and of his Disobedience to Orders, and that he should be tried for the same ‡;

“ The said Captain *William Douglas* is therefore now to be tried;

“ For Absence from Quarters without Leave, and Disobedience to Orders.”

Captain *Douglas* desired of the Court, that the Remonstrance and *his Letter* requesting the Court-Martial might *first be read*.

The Court was cleared and the Question put, Whether Captain *Douglas*’s Request should be granted, or if the Judge-Advocate should proceed to prove the Charge, in the Course of which the Remonstrance would be read?

The Court was of Opinion that the Judge-Advocate should proceed to prove the Charge, and that the said Remonstrance and *Letter* should *not* be read, until it came in *the Course of the Trial*.

The Secretary of the Admiralty’s Letter, of the 30th of *November* last, mentioned in the Charge, and admitted by Captain *Douglas* as a true Copy, *viz.*

Admiralty-Office, 30th Nov. 1763.

S I R,

“ MY Lords Commissioners of the Admiralty observing
 “ by the General Return of the Marines of the 27th
 “ Instant, that you had not then joined your Division, tho’
 “ you are first upon the Roster for Duty, and was ordered
 “ by your Commanding Officer, on the 15th Instant, to
 “ repair to Quarters; I am commanded by their Lordships
 “ to signify their Direction to you, to repair immediately to
 “ the proper Head-Quarters of the Division to which you

† *Vide* Letter 14th of *March*.

‡ *V.de* Warrant.

“ belong,

“ belong, notwithstanding any Leave of Absence you may have
 “ received from their Lordships, or from any other Person.”
 I am, &c.

PHP. STEPHENS.

To Captain *William Douglas*
 of Marines. *Buckingham-*
Court.

The following Witnesses were examined in support of the Charge.

LIEUTENANT WILLIAM SABINE, Adjutant of the *Chatbam* Division of Marines, being duly sworn, was examined.

Question. Was Captain *Douglas* first on the Roster for Sea-Duty, on the 30th of *November* last?

Answer. He was.

Q. Did he acquaint Captain *Douglas* therewith, at or near that Time?

A. On the 15th of *November* last, he wrote to Captain *Douglas* to repair to Quarters, being first on the Roster for Sea-Duty.

Q. Did Captain *Douglas* comply with these Orders?

A. He did not.

Q. Did Captain *Douglas* repair to Quarters, upon the Admiralty Order to him, of the 30th of *November*, for that Purpose, which has been read?

A. No.

Q. How long was Captain *Douglas* put down absent, without Leave, in the General Returns made from Head-Quarters?

A. He was returned Absent without Leave from the 18th of *November* 1763, to the 31st of *March* 1764, and offered to produce Copies of the Returns for that Time, which he deposes are true Copies.

* Captain *Douglas* admitted the same, and allowed it to be unnecessary to examine them.

LIEUTENANT SABINE again Questioned.

Q. Did Captain *Douglas* still continue first upon the Roster for Sea-Duty, during the said Space of Time?

A. Yes.

* Captain *Douglas* admitted the Receipt of the two Orders of the 15th and 30th of *November*.

Q. How

Q. How soon after the said Orders did Captain *Douglas* repair to Quarters?

A. On *Sunday* the 1st of *April* last, in the Evening, he had Notice of Captain *Douglas's* Arrival at Quarters.

LIEUTENANT COLONEL JOHN MACKENZIE of the *Chatham* Division of Marines, being duly sworn, was examined.

Q. At what Time in *November* last did the Command at Quarters devolve upon him, and how long afterwards did it continue?

A. Colonel *Bendyshe* having left the Division the 16th of *November* last, the Command at Quarters then devolved upon this Witness, and continued till the 23d of *April* last.

Q. Was Captain *Douglas* at Quarters when his Command commenced?

A. He was not.

Q. Was Captain *Douglas's* Leave of Absence then expired?

A. It was not, but expired the 18th of *November*.

Q. Was Captain *Douglas* then first upon the Roster for Sea-Duty?

A. He was.

Q. Was he acquainted with any Orders that were transmitted to Captain *Douglas* to repair to Quarters in *November* last?

A. He was acquainted with the aforesaid Order to Captain *Douglas* of the 15th of *November* last; and received a Letter from the Admiralty acquainting him that Captain *Douglas* was ordered to Quarters on the 30th of the same Month.

Q. Did Captain *Douglas* repair to Quarters in Consequence of the said Orders?

A. No.

Q. Did Captain *Douglas* transmit to him any Reasons for not repairing to Quarters in Consequence of the said Orders?

A. He transmitted a Certificate signed by a Physician and Surgeon, in regard to his Health.

Which Certificate was read, and allowed by Colonel *Mackenzie* to be the original one, the Copy as follows:

“ These are to certify, That we have attended Captain
 “ *Douglas*, of his Majesty's Marine Forces, for three Weeks
 “ in a *Rheumatick Fever*, all which Time he has been con-
 “ fined to the House, and is still so much indisposed, that it
 “ would be attended with great Danger to his Health or
 “ Life,

“ Life, to be exposed to the open Air, for at least some
“ Time.”

*Cleveland Court,
St. James's Place,
Dec. 1. 1763.*

ROBT. KNOX
Physician to his Majesty's
Hospitals for the Army.

Great Pultney-Street.

Rt. SMITH Surgeon,
late of the Royal Navy.

To the Commanding Officer of
his Majesty's Marine Forces
at *Chatham.*

Q. Did he admit the Certificate as a sufficient Excuse for
Captain *Douglas* not repairing to Quarters?

A. The Admiralty having sent so peremptory an Order as
that of the 30th of *November*, and Captain *Douglas* being re-
turned absent without Leave, he imagined left him no room
to transact any Business betwixt Captain *Douglas* and the
Admiralty, as he had also received particuler Orders from
Quarters to rapair to his Duty; he therefore sent back his
Certificate, at the same Time telling him, that his Appli-
cation should be made to the Admiralty, as he was in *Lon-*
don himself, Captain *Douglas* again returned the Certificate
with † an Injunction, that Care might be taken of it, and as
it was directed to the Commanding Officer, he was to do in
it what he judged most proper.

Q. What Remarks did he make on Captain *Douglas* in the
General Returns of the Division, after receiving the said
Certificate?

A. He produced the Copy of the Return of the Division
dated the 4th of *December* last, wherein it appeared that
Captain *Douglas* was returned Absent without Leave, with
the following Remark opposite his Name, viz.

“ Leave expired, 18th *November*.
“ Ordered to Quarters, 15th D^o.”

Q. How did he dispose of the said Certificate after Captain
Douglas returned it to him?

† *Vide* Letter 6th *December*, N^o 17.

Note, There is no Reason of Absence given on this Return, and continued the
same till the 4th of *March*.

A. In consequence of Captain *Douglas's* second Letter, he sent it to the Admiralty.

Q. How soon after that Time did he receive any Orders from their Lordships, in regard to Captain *Douglas*?

A. On the 2d or 3d of *March* last, he received a Letter from the Secretary of the Admiralty, dated the † 1st of that Month, telling him, that as Captain *Douglas* had been absent without Leave since *November* last, it was their Lordships Directions to him, forthwith, to give him the strictest Orders to repair immediately to his Duty.

Q. Did he transmit to Captain *Douglas* any Orders in consequence of those received from their Lordships?

A. Having received another Letter from the Secretary of the Admiralty, on the 4th of *March*, dated the † 3d, with an Order to send a Captain of Marines on Board his Majesty's Ship the *Prince Edward* in the *West-Indies*, this Letter arriving so near to the preceding Order, in regard to Captain *Douglas*, and he being the first on the Roster for Sea-Duty, he sent him Copies of both Orders, that of the 1st and 3d of *March*, (by the Adjutant) directing that he should forthwith repair to the *Tartar* at *Portsmouth*, and in her to take his Passage to *Jamaica*, to serve as Captain of Marines, on Board his Majesty's Ship *Prince Edward*, according to their Lordships Orders.

Q. Did Captain *Douglas* comply with these Orders?

A. No.

Q. Did Captain *Douglas* give him any Reasons for not complying with his Orders?

A. He received a Letter from Captain *Douglas*, of the 9th of *March* 1764, which was read, of which the following is a Copy, viz.

London, 9th *March* 1764.

S I R,

Y^Esterday after Three o'Clock, I received a Letter from the Adjutant, dated the 4th, inclosing Copies of the Lords of Admiralty's Orders, of the 1st and 3d Instant, communicate to you by their Secretary, and directing you to order the Captain of Marines, first in rotation for Sea-Duty on the Roster, to repair immediately on Board the *Tartar*, to go in her to *Jamaica*, to do Duty on Board his Majesty's Ship *Prince Edward*—In consequence of this, I

†† Vide Secretary's Letters of the 1st and 3d of *March* 1764, N^o 20, and 21.

“ have

“ have also received your Order inclosed, addressed to me,
 “ directing me to go in the *Tartar* to *Jamaica* accordingly,
 “ as being the first Captain on the Roster, &c. You are
 “ very sensible, that I have been for Months past so ill, as
 “ not to be able even to come to Quarters, far less in a
 “ Situation to execute your present Orders to go to *Portf-*
 “ *mouth*, and from thence to *Jamaica*, near 5000 Miles off,
 “ to a Ship:

“ I always have, and ever will be ready to execute all
 “ Orders from their Lordships, or any superior Officer’s for
 “ his Majesty’s Service, when my Health will permit, and
 “ not prevented by occasional Sicknefs, which is the Case
 “ at present, and which has been brought on me, by being
 “ on Duty the whole War without Relief, and as it is at this
 “ Time a just and necessary Excuse; I hope it will be satisf-
 “ factory to their Lordships, and every one else.”

I am, Sir,

Your most obedient humble Servant,

WILL. DOUGLAS.

P. S. I would have wrote last Night, if I had not been much indisposed.

To Colonel *Mackenzie*
 commanding the Ma-
 rines at *Chatham*.

Colonel *Mackenzie* observes, that it was mentioned in the Letter, (that he was very sensible that he had been for Months past so ill, as not to be able to come to Quarters) this Colonel *Mackenzie* thinks extraordinary, as no Correspondence had passed between him and Captain *Douglas*, from the 6th of *December* 1763, to the 9th of *March* 1764.

Q. (By Captain *Douglas*) Whither or not did he acquaint Colonel *Mackenzie* by his former Letters, that he would repair to Quarters, as soon as his *Illness* would permit, and that he should be advised that *he could safely do so*?

A Several Letters had passed betwixt Captain *Douglas* and the Commanding Officer, the last of which is dated the 6th of *December* 1763, which he produced, and desired that a Paragraph therein should be read, as an Answer to the said Question, as follows:

“ I have

“ I have received yours of the 2d, giving me the Information I desired, for which I am obliged to you; my Meaning in desiring you to send me *on board* in my proper *Tour* is, that the Gentlemen of the Corps shall not be injured by my Illness, which is temporary, that tho’ I am not able to go to Quarters instantly, far less on board Ship, yet in all Probability I will *be able* before any Ships *can move*, as there appears to be no immediate Demand at present.”

Q. (By Captain *Douglas*) Whether from these Letters he had not Reason to think, that he was still ill on the 9th of *March*, as he had not then come to Quarters?

A. That as Captain *Douglas* had expressed his Illness to be temporary, it was impossible for him to determine the Situation of his Health, at the Distance he was from him.

Q. (By Captain *Douglas*) Whether Colonel *Mackenzie* in his Letter of the 7th of *December* last, did not wish his Recovery, that he might get Health, and he *prevented any further Epistolary Correspondence*, as he had no Eyes to spare for writing, but what absolute Necessity obliged him to undergo?

A. He believes he did.

* Q. (By the Judge-Advocate) Did Captain *Douglas* transmit any Certificate of the State of his Health after that of the 1st of *December*?

A. No.

Q. Did he admit the Reasons given by Captain *Douglas* in his Letter of the 9th of *March* as an Excuse for his not complying with his Orders?

A. He looked upon Captain *Douglas*’s Letter of the 9th of *March* to be intended as the then Situation of his Health, and therefore sent it to their Lordships in the same Manner as he had done his former Certificate.

Colonel *Mackenzie*’s Letter of the 11th of *March* to the Secretary of the Admiralty was then read, and declared by him to be the original Letter, a Copy of which is as follows:

Orderly-Room Chatham, March 11, 1764.

SIR,

“ IN pursuance of their Lordships Directions communicated to me in your Letter of the 3d, which I received on the 4th, desiring that a Captain of this Division should immediately repair on board the *Tartar* at *Portsmouth*, in

* Here a Question was asked, which the Court found this Witness could not answer, being against himself, therefore allowed to be put out of the Minutes.

C

“ order

“ order to take his Passage in said Ship for *Jamaica*, there to
 “ embark on board his Majesty’s Ship *Prince Edward*, where
 “ he is to continue and do Duty as Captain of Marines;
 “ and Captain *William Douglas* being *first on the Roster* for Sea
 “ Duty, who desired in several Letters, notwithstanding his
 “ not being at Quarters, that he might be sent to *Sea Duty* in his
 “ proper Tour, I therefore sent him a Copy of their Lordships
 “ Directions, and my own particular Order, to repair forth-
 “ with to *Portsmouth*, in order to go in the *Tartar* to *Jamaica*,
 “ to serve as Captain of Marines on board his Majesty’s
 “ Ship *Prince Edward*; these Directions and Order were
 “ sent him on the 4th to *London* where he now is, and Yes-
 “ terday the 10th I received his Answer, which I herewith
 “ inclose, in order to be laid before their Lordships; and
 “ have deferred ordering the next Captain on his Duty, until
 “ I receive their Lordships further Directions”. I am, Sir,

“ Your most humble Servant,

“ JOⁿ. MACKENZIE.

“ Since † I wrote the foregoing Letter, Captain *Cockburn*
 “ hath delivered me the Letter and Remonstrance of the
 “ Captains inclosed with this—to be laid before their Lord-
 “ ships.”

Php. Stephens, Esq; Secretary to the Admiralty.

2. What Remark did he make on Captain *Douglas* in the
 general Returns of the Division, after he was ordered to the
Tartar?

A. A Copy of the Return of the Division dated the 4th
 of *March* last was laid before the Court, wherein Captain
Douglas was returned absent without Leave, with the follow-
 ing Remarks, viz.

“ Absent § without Leave in *London*, order’d to repair on
 “ board his Majesty’s Ship *Tartar* at *Portsmouth* 4th *March*,
 “ 1764.”

2. Can he lay before the Court the Letters from Captain
Douglas mentioned in his of the 11th of *March* last, wherein

* There is no Notice taken of Captain *Douglas*’s Illness in this Letter.

† Vide 34th Article Marine Regulations annexed.

§ No Reason of Absence given on this Return.

he desires that notwithstanding his not being at Quarters, he might be sent to Sea in his *proper Tour*?

In Answer to which the Letters from Captain Douglas were produced by Colonel Mackenzie, and the following Paragraphs read from them, viz.

Nov. 19, 1763. To Colonel Bendshe.

“ In the mean time if any Demand is made for Captains
“ to go on board, I beg the Favour you’ll send me in my
“ *proper Tour*, when it comes to that, and I shall answer for
“ the Duty, which I suppose you’ll have no Objection to,
“ tho’ I should not be on the Spot.”

Nov. 26. To Colonel Mackenzie.

“ I have been very ill (as I desired the Adjutant to ac-
“ quaint Commanding Officer) which has and does now
“ prevent my immediate repairing to Quarters, but shall as
“ soon as I can venture on it, in the mean time if any de-
“ mand be made for Captains to go on board, I beg the Fa-
“ vour you’ll send me in my *proper Turn*, and I shall answer
“ for the Duty, which I hope you’ll have no Objection to,
“ altho’ I am not on the Spot, yet near at hand.”

November 30. To Colonel Mackenzie.

“ That the Lords of the Admiralty may see the Occasion
“ of my Absence, since the Receipt of the Order to come
“ to Head-Quarters, and that I have at the same Time de-
“ sired you to send me on board in my *proper Tour*, if any
“ Demand should be made before I am able to get to Quar-
“ ters.” *

December 6. To Colonel Mackenzie. †

— The Paragraph is already inserted in the 11th § Page.

Colonel MACKENZIE again questioned.

Q. Were these Letters any Inducement to him to order Captain Douglas to the *Tartar*, ‡ notwithstanding his not being then at Quarters?

* Part of a long Paragraph only.

N. B. How these Letters came not to be inserted in these Proceedings is a Mystery unknown to Captain Douglas, as they are capital Papers in the Trial.—

† Vide Letters the 19th and 30th of November, and 6th of December, No. 11, No. 13, and No. 17, annexed.

§ Page 17 of this printed Copy.

‡ Captain Douglas was ordered to go in the *Tartar* a Passenger to the Prince Edward at Jamaica.

A. No Doubt of it, for he thought Captain *Douglas* might take it very ill of him, not to have complied with the Desire of his Letters.

Q. Was it by his Directions that Captain *Douglas* was put down in the Returns from the *Chatham* Head-Quarters, absent without Leave from the 18th of *November* to the 31st of *March* last?

A. It was: Captain *Douglas* having been dealt with in this Affair in the same Manner as all Officers are whose Leave is expired, or who are ordered to Quarters, and do not repair there.

Q. (By Captain *Douglas*) Whether it is the way for Commanding Officers to return Officers absent without Leave, without any farther Observation, when they have been properly acquainted with their Sicknefs?

A. The particular Circumstances of any Officer's Situation when publickly reported in the general Returns to the Admiralty, in Cases of this Nature, is left to their Lordships to determine.

Captain *George Cockburne*, Captain *James Perkins*, and Captain *John Hayes*, being called on in order to be sworn and examined as Witnesses in Support of the Remonstrance, a Part of the Charge against Captain *Douglas*.

Captain *Douglas* objected to their being examined upon Oath on the Subject of the Remonstrance, as he looked upon them rather § as his Prosecutors, and desired the Opinion of the Court thereon.

The Court being cleared, the Question was put, whether or not the said three Captains should be examined upon Oath, as Witnesses in Support of the Remonstrance, a Part of the Charge against Captain *Douglas*, exhibited by the Judge-Advocate, prosecuting him in his Majesty's Name.

It was the Opinion of the Court, that the said three Captains may be examined upon Oath as Witnesses to support the Remonstrance, a Part of the Charge against Captain *Douglas*.

Captain *GEORGE COCKBURNE*, Captain *JAMES PERKINS*, and Captain *JOHN HAYES*, of the *Chatham* Division of Marines being duly sworn, a Paper was read, of which the following is a Copy, intituled,

§ Ext. Captain *Douglas's* Minutes.—“ As he looked on them as his Accusers, if not his Prosecutors,” in fact strongly interested.

“ A Remonstrance from the Captains of the Marines
 “ now at Quarters, to the Lords of the Admiralty.
 “ Whereas in a Letter dated the 9th Instant, from Cap-
 “ tain *William Douglas*, not attending his Duty on Account
 “ of his Indisposition, and with the *Extracts* of his Letters,
 “ at our Request given us, are of Opinion that *they* || are
 “ downright Equivocations of his Duty, he being favoured
 “ with four Months Leave of Absence, took the Liberty of
 “ three Months more, *contrary to their Lordships Order*. As
 “ we look upon it, that every Captain at Quarters is to do
 “ the Duty in his Turn, we cannot, in Justice to ourselves,
 “ and every Officer in the Corps, neglect remonstrating
 “ our Request to their Lordships, that Captain *William*
 “ *Douglas* may be ordered on his proper Duty, according to
 “ their Lordships Order, *dated the third Instant*. The under-
 “ mentioned Officers has been in the Service between seven-
 “ teen and twenty Years, and never neglected to do their
 “ Duty when ordered; why Captain *Douglas* should endea-
 “ vour to impose on them in the manner they cannot ac-
 “ count for, therefore leaves it to their Lordships determi-
 “ nation.”

Chatham,
March 11, 1764.

GEORGE COCKBURN, }
 J. PERKINS, } Captains.
 JOHN HAYES, }

Which Remonstrance the said three Captains acknow-
 ledged to be the original one signed by them, and sent to
 the Admiralty.

Captain *Cockburn* was then desired to inform the Court of
 his Reason for making the said Remonstrance, and to pro-
 duce his Proofs of these Reasons.

A. † His Reasons for joining in the Remonstrance were,
 first

|| *Vide Duplicate No. 1, herewith prefixed.*

* Captain *Douglas's* Letter of the 14th of *March* should have been read, &c.
 here, according to the Opinion of the Court, *vide Page 11, being in due Course*
of the Trial.

† Here Captain *Cockburn* read the Paper under mentioned, which although
 on earnest Application he was allowed it to make Use of on his other Defence,
 yet Captain *Douglas* did not allow the Proceeding to be moved out of his Trial.

The Paper is as follows, *viz.*

“ Mr. President, and Gentlemen of the Court,
 “ I must now beg Leave to observe, that when myself, Captains *Perkins*
 “ and *Hayes*, wrote our Letter to their Lordships of the 11th of *March* last,
 “ con-

first, Captain *Douglas's* Absence from Quarters from the 18th of *November* to the 10th of *March* last, notwithstanding the repeated Order's sent him to repair thither; next, the *Extracts* from Captain *Douglas's* Letters, which were wrote in a doubtful Stile that *he* could not comprehend; and lastly, that he himself being next Captain upon the Roster for Sea Duty, he therefore imagined he would be sent to Sea out of his proper Turn, if Captain *Douglas* should be excused on account of *Sickness*.

He then desired that Lieutenant *Sabine* and Colonel *Mackenzie* might be examined to prove some Points that relate to his Reasons for joining in the Remonstrance.

Lieutenant SABINE again examined.

Q. (By Captain *Cockburn*) Did he receive a Letter from Captain *Douglas* dated the 8th of *March* last?

A. He did.

Q. Can he produce that Letter?

A. He produced the Letter, and the Paragraph referred to by Captain *Cockburn* was read as follows:

"complaining of Captain *Douglas's* Absence from Quarters, we had not the least malicious Thought or ill-natured Intent against Captain *Douglas*; nay, upon Honour, we never had; all we meant was, that Captain *Douglas* should repair to his Quarters, and do his Duty agreeable to the Roster, and take his proper Turn in case of being order'd on Sea Service, which actually happened; and this, and this only, occasioned our hasty Remonstrance; but when Captain *Douglas* returned to his Duty we were all of us intirely satisfied, and never wished, intended, or wrote for any Court-Martial, or suspected such a Thing to happen, much less to be called on in the Light of Prosecutors or Evidence against Captain *Douglas*; on the contrary, we would readily have joined in any Act that could with Honour and Propriety been proposed by Captain *Douglas* to have prevented such a disagreeable Affair happening, and the Trouble you Gentlemen that compose this Court must of Necessity have upon the Occasion: And our only Wish now is, and we flatter ourselves, we shall be able to vindicate ourselves in regard to our Letter † of the 12th of *March* last to their Lordships, which we then thought ourselves under the Necessity of writing, and that we had just, very just Cause for so doing.--- And we apprehend it will appear that, that very Act immediately brought Captain *Douglas* to his Quarters after near Eleven Months Absence with and without Leave, all which we flatter ourselves will fully appear to the Court, to whose impartial Judgment we with Pleasure and great Satisfaction submit ourselves,

"Signed GEORGE COCKBURN."

† It seems there was a Letter of the same Date, and sent along with the Remonstrance.

"You

" You * tell me I am the 2d for Sea Duty, I should not
 " imagine it was *so near*, as I think I left *Eight Captains to*
 " go before me."

Lieutenant Colonel MACKENZIE again examined.

Q. (By Captain Cockburn) Has he a Letter from Captain Douglas dated the 2d of December last?

A. Colonel Mackenzie produced the original Letter to the Court, and the Paragraph referred to by Captain Cockburn was read as follows:

" I † hereby acquaint you, that I have received an Order
 " from the *Admiralty* (signed by their Secretary) to repair
 " immediately to Head-Quarters, and you need not doubt,
 " but that it will be put in Execution with as great Expe-
 " dition as my Health will admit of."

Captain Cockburn then observed to the Court, that Captain Douglas did not take Notice of the Order dated the 4th of March last, sent him by the Commanding Officer, which induced Colonel Mackenzie to send an orderly Serjeant on purpose with a Letter to Captain Douglas to know the Cause.

Colonel MACKENZIE again examined.

Q. (By Captain Cockburn) did he send a second Order to Captain Douglas upon not receiving an immediate Answer to his Orders of the 4th of March.

A. He waited the Arrival of two Posts after the 4th of March, and dreading, by having no Answer, that Captain Douglas might not have received the first Order, it being of Consequence, he on the 7th sent a Serjeant on purpose with a Copy of the former Order to Captain Douglas, and received his Answer on the 10th, dated the 9th of March.

Captain Douglas desired the first Paragraph of the said Letter might be read, which was as follows:

" Yesterday after three o'Clock I received † a Letter from the
 " Adjutant, dated the 4th, inclosing Copies of the Lords of
 " the Admiralty's Orders of the 1st and 3d Instant."

* Captain Douglas asked this Witness several Questions about this Letter, and among others, how those Captains got that Extract out of his Letter? Ans. by Order of the Commanding Officer.

† This Letter went with the Certificate to Colonel Mackenzie, vide No. 14, annexed.

‡ i. e. The Original, not the Copy.

Lieutenant SABINE again examined.

Q. (By Captain *Cockburn*) Did he send the Order of the 4th of *March* directly to Captain *Douglas* by Post, or through any other Hand?

A. He sent the said Order under Cover to Mr. Locke, at *Will's* Coffee-House, and that under Cover to Mr. Stephens, Secretary to the Admiralty, which he thought the safest Way, as they were Letters of Consequence.

Serjeant ROBERT CRAIGE being sworn was examined.

Q. (By Captain *Cockburn*) Was he the Serjeant that carried Orders to Captain *Douglas* at *London* from Colonel *Mackenzie* in *March* last.

A. He was.

Q. How long did he stay at Captain *Douglas's* Lodgings, before he could get Admittance to deliver the Orders he was sent with?

A. About ten Minutes.

Q. (By Captain *Douglas*) What Time of the Day did he deliver the said Letter?

A. As near as he can guess, it was between three and four in the Afternoon of the 8th of *March* last.

Q. Where was Captain *Douglas* when he delivered the said Letter?

A. In Bed.

Q. Whether Captain *Douglas* had his Orders of the 4th lying before him when the Serjeant came to him, and if he did not tell the Serjeant that he had received them about an Hour before he came?

A. He does not know whether the Order was lying before Captain *Douglas* or not, but Captain *Douglas* told him, he had received a Copy of the same Order from a Gentleman a little Time before he came.

It being near three o'Clock the Court was adjourned 'till Tuesday Morning nine o'Clock.

TUESDAY

TUESDAY 9.

The Court being met pursuant to Adjournment,

CAPTAIN JAMES PERKINS being then examined was desired to inform the Court of his Reasons for making the Remonstrance, which has been read and acknowledged by him, and to produce his Proofs of these Reasons.

A. The late Order wherein Captain *Douglas* was to repair on board his Majesty's Ship the *Tartar*, in order to proceed in a Voyage to *Jamaica*, to be put on board his Majesty's Ship *Prince Edward*, whose Duty it was *by the Roster*, and on his Non-compliance, Captain *Cockburn* was immediately put in Orders to hold himself in Readiness for Sea Duty, which he apprehended to be for the same Voyage in the *Tartar*, which had he been obliged to comply with, would have brought him nearer to Sea Duty *by two*, and would undoubtedly been very disagreeable to him; that as Captain *Douglas* had *absented himself* from Quarters, and was returned also without Leave in the General Returns of the Division; and by his several Letters which he apprehends can prove no more than his temporary Illness, and as he looks on temporary Illness such as would favour him at different Periods to repair to Quarters, without endangering his Life; all which he presumes has already been proved by Colonel *Mackenzie* and the Adjutant's Evidence: He begs Leave to rest on the same, as his Reasons *for writing* to their Lordships, and flatters himself that these Gentlemen's Evidence will sufficiently confirm the Truth of such his Remonstrance.

Captain JOHN HAYES was then examined, and desired to inform the Court of *his Reasons* for making the Remonstrance, which has been read and acknowledged by him, and to produce his Proofs of these Reasons.

A. Captain *Douglas* having been absent three or four Months without Leave, and *not giving* any *satisfactory Reason* to the Commanding Officer, or the Lords of the Admiralty, for such Absence, was *what induced* him to sign that Remonstrance, and the Reasons that Captain *Douglas* gave to the Commanding Officer appears to this Witness not to have been satisfactory to him, nor to the Lords Commissioners of the Admiralty, as *they ordered* him to Quarters *repeatedly*.

N. B. Captain *Douglas* observed that he could not ask *cross* Questions of the Captains, as they were against themselves, consequently could give no Evidence against him.

The

The Judge Advocate here rests the Proofs of the Charge.

Captain DOUGLAS was then desired to proceed on his Defence, and he delivered himself to the Court as follows:

Mr. President, and Gentlemen of the Court-Martial,

YOU have heard a Remonstrance read, which at the same Time that it occasioned the assembling the Court-Martial has brought on me the heavy Charge of Disobedience to Orders, and Absence without Leave; two Circumstances I flatter myself will appear on this Trial, and in all the former Course of my Services; very unapplicable to me, who have often done Duty out of my proper Tour on actual Service. I beg Leave to begin a little earlier than their Lordships Order of the 30th of *November*, to shew, that preceding that Order the Commanding Officer was *properly acquainted* with my Indisposition, even before his Order of the 15th of *November* for me to repair to Quarters; and in Answer to which Order I expressed a Readiness to comply with it had I not been prevented by Illness, and that while my Leave from the Admiralty was *not expired*, but *renewed** with Conditions, on account of my Sickness; this appears by my Letters of the 12th of *November* to Colonel *Bendyshe*, and of the 17th of *November* to Lieutenant *Sabine*, in Answer to the Orders of the 15th of *November*, which I desire may be read in Court. The same were read as follows:

SIR,

AS my Leave of Absence from Quarters expires in a short Time, I find myself under the Necessity to desire the Favour you'll be so good as to apply to the Lords of the Admiralty for a farther Prolongation thereof, on account of some Business of Consequence I have to transact in *London*, and being *much indisposed* at present, and I hope their Lordships will the more readily comply with this Request, as I am at hand to attend Sea Duty when it comes in *proper Turn*.

I am Sir,

Your most obedient humble Servant,

London, Nov. 12, 1763.

WILL. DOUGLAS.

To Col. *Bendyshe*.

* By Mr. Secretary's Letter of *November 19*.

The following Letter was also read.

SIR,
THIS serves to acquaint you that I have received yours of the 15th, containing Orders for me to repair to Quarters. In Answer thereto please to inform Colonel *Bendyshe*, or Commanding Officer, that I have been ill for this Month past, and am so at this Time, and *not able* immediately to comply with his Directions, but that I shall come to Quarters as soon as my Illness *will permit*, and I shall be advised that I *can safely* do so.
I am Sir,

Your most humble Servant,

London, Nov. 17, 1763.

WILL. DOUGLAS.

To Lieut. *Sabine*.

Captain *Douglas* then proceeded :

I beg Leave of the Court to observe (as acknowledged by Colonel *Mackenzie's* Letter to me of the 2d of *December*) that my Letter of the 17th of *November* to the Adjutant was laid before the Lords of the Admiralty, notwithstanding which, they acquainted the Colonel, that they had ordered me to Quarters, which it appears they did by their Order of the 30th of *November*, which Letter of Colonel *Mackenzie's* I desire may be read, as follows :

Orderly-Room Chatham, Dec. 2, 1763.

SIR,
HAD my Eyes permitted me, I should if requisite answered your Letter by my own Hands, therefore to satisfy you, I do by my own Hands now acknowledge the Receipt of your's of the 30th of *November* this Morning, and also tell you that your Letter of the 17th *November* and your Reasons were laid before the Admiralty, notwithstanding which they have told *us*, that they ordered you to Quarters, where its my Opinion you should immediately repair to, and there Matters may more properly be reconciled to your Knowledge, then Letters can effect.

I can't see how I can order any Officer on board, who says he is so bad he can't come to Quarters, however this you'll probably explain when we see you, the sooner the better.

I am Sir,

Your most obedient humble Servant,

JO^s. MACKENZIE.

Capt. *Wm. Douglas*.

Captain

Captain *Douglas* proceeded :

I desire that this Letter may be taken Notice of, as a Paragraph of my Letter of the 6th of *December* is an answer to the latter Part of that which has been now read, in regard to going on board in my *proper Tour*, which Paragraph I desire may be read, as follows :

“ I have received your’s of the 2d, giving me the Information I desired, for which I am obliged to you ; my Meaning in desiring you to send me on board in my *proper Tour* is, that the Gentlemen of the Corps shall not be injured by my Illness, which is temporary : that tho’ I am *not able* to go to Quarters instantly, *far less on board Ship*, yet in all Probability I will be able before any Ships *can move*, as there appears to be no immediate Demand at present.”

Captain *Douglas* proceeded.

On my Receipt of their Lordships Order of the 30th of *November* last to repair to Quarters, notwithstanding former Leave, and as I found by Colonel *Mackenzie*’s Letter of the 2d of *December*, that my Letter of the 17th to the Adjutant was then lying before their Lordships, I consulted the Physician the next Day, who, together with the Surgeon who had attended me a Month before, gave a Certificate which has already been produced in Court, and which shews my Situation at that Time, from which Period they have attended me in my Illness, the Nature of which they are best able to explain, and which I still labour under, tho’ in a less Degree, and thereby unable to do my Duty. I have been confined to the House the whole Time, from the 30th of *November* to the 1st of *April*, except when by the Doctor’s Permission at Times to take the Air ; and neither been able to do any Business abroad, nor visit any of my Friends, one Family excepted, which was the same as being at home, and then I was carried in a Chair : I have further to observe, that by my Letter on his Majesty’s Service of the 2d of *December*, I transmitted the Certificate from the Physician and Surgeon, in a Letter to Colonel *Mackenzie*, which Letter I desire may be read as follows.

London, Dec. 2, 1763.

SIR,

I Hereby acquaint you, that I have received an Order from the Lords of Admiralty (signed by their Secretary) to repair immediately to Head-Quarters, and you need not doubt but that it will be put in Execution with as great Expedition as my Health will admit of.

In

In the mean time I have sent you inclosed a Certificate of Health, from the Physician and Surgeon who attend me, which you *may* communicate to their Lordships in the *best Manner* you may judge proper, taking *such Care* of the Certificate that it *may be produced*, if called for, hereafter.—I desire the Favour you'll acknowledge the Receipt of this, and for any Thing farther, I refer to former Letters.

I am, Sir,

Your most obedient humble Servant,

WILL. DOUGLAS.

To Colonel *Mackenzie*,
Commanding Marines,
Chatham.

Captain *Douglas* proceeded:

Colonel *Mackenzie* returned the Certificate again to me in his publick Letter, of the 3d of *December*, desiring that I would send it to the Admiralty, which, not appearing *proper for me to do*, I transmitted the Certificate to Colonel *Mackenzie* again in my Letter, of the 6th, with *Reasons therein given*, desiring him either to send it to their Lordships, or keep it till called for, as he thought proper; in answer to which Colonel *Mackenzie* by his Letter, of the 7th of *December*, acquainted me, that he had inclosed it to the Secretary of the Admiralty for their Lordships Perusal, and then sincerely wishes me Recovery to health, that he might be prevented any *farther epistolary Correspondence*, as he found it troublesome, except when absolute Necessity required it.—Which Letter I desire may be read, as follows:

Orderly-Room, Chatham, Dec. 7, 1763.

SIR,

“ THIS Morning I received yours, of the 6th, inclosing
“ your Certificate of want of Health; which, as you
“ seem to think, that its being sent by me to the Admiralty,
“ may be of Service to you; I have therefore by this Post,
“ inclosed it to the Secretary for their Lordships perusal.

“ I

“ I sincerely wish your Recovery, that you may get
 “ Health, and I prevented any further epistolary Correspondence, who have no Eyes to spare in Writing, but what
 “ absolute Necessity obliges me to undergo.”

I am, Sir,

Your most obedient humble Servant,

JOⁿ. MACKENZIE.

Captain *William Douglas.*

Colonel *Mackenzie* desiring that any Letters * of his to Captain *Douglas*, that he thinks proper for his Defence, may be read : The following Letter was read, viz.

Orderly-Room, Chatham, Dec. 3, 1764.

S I R,

“ **A**S their Lordships Orders for your immediate repairing
 “ to Quarters, were not communicated to you through
 “ the Commanding Officer at this Place, it would appear
 “ very improper for your Sick Certificate to go from hence ;
 “ I have therefore sent it to you, as the *proper Person*, to
 “ send it yourself to the Secretary of the Admiralty for their
 “ Lordships Perusal, and your *Justification*.”

I heartily wish you soon better Health,

and am, Sir,

Your most obedient humble Servant,

JOⁿ. MACKENZIE.

Captain *William Douglas,*
London.

Captain *Douglas* then desired that the second Paragraph of his Letter, of the 6th of *December*, to Colonel *Mackenzie*, in

* N. B. This is a curious Request of one who had given *Extracts* out of Captain *Douglas's* Letters.

Answer

Answer to the preceding, should be read, but not ingrossed, as it is inserted before in the 11th Page †, which was read accordingly.

Captain Douglas proceeded.

After this I remained still sick, and in the Physician and Surgeon's Hands, and I humbly conceive, I was not to be the first in opening again a Correspondence with Colonel Mackenzie, as I might understand by his Letter § referred to †, by my Letter, of the 2d of December, mentioning that I would come to Quarters, as soon as I should be advised that I could safely do so; and as I was always in hopes of being able every two or three Weeks to repair to Quarters, I did not apply to their Lordships for a particular Leave of Absence, as I looked upon the Certificate then lying before their Lordships, to be fully satisfactory, and shewed the evident necessity of Absence on account of Health; and by my never hearing farther, either from Colonel Mackenzie or their Lordships, I concluded the Certificate to be all along fully sustained, agreeable to the Custom of War in such Cases.

I must now beg the Court's Indulgence to touch on the *Extracts* of my Letters which were given by Colonel Mackenzie to Captains Cockburn, Perkins, and Hayes, and of which the *Extract* of my private Letter, of December the 6th, is the *Explanation*.—In consequence of the Observation contained in Colonel Mackenzie's Letter, of the 2d of December, wherein he expresses himself thus, "I cannot see how I can order any Officer on Board, who says he is so ill that he cannot

† The Paragraph in the 11th Page, being the first Paragraph of the Letter, of the 6th December, in Answer to a Letter dated the 2d December. The second Paragraph is inserted in view, as follows: viz.

"I have also been favoured with yours, of the 3d, returning the Certificate, with your Reasons for so doing, and, with Submission, it appears to me, that, as it gives substantial Reasons for my yet Absence from Quarters, *ibo* I have got their Lordships Order, I can't (conformable to their Instructions) represent what relates to common Course of Service, but through the Hands of the Commanding Officer at Quarters, and for some other Reasons needless to observe at present; I have therefore taken the Liberty to return again the Certificate to you, which you are the best Judge, whether you should lay before their Lordships, or keep it till called for; considering, at the same time, that the Certificate is directed to the Commanding Officer at Quarters. — This I submit to your better Opinion."

‡ N. B. Extract from Captain Douglas's Minutes before the Court, viz. "and he might also understand by my Letter of the 2d of December, that I would come to Quarters as soon as I should be advised that I could safely do so."

§ 7th December.

Note. Page 17th in Print is the 11th of Proceedings.

"come

“ come to Quarters.” I made answer in my *private* Letter ¶, of the 6th, which tells him, “ my Meaning in desiring you “ to send me on Board in my *proper Tour*, is, that none of “ the Gentlemen of the Corps may be *injured* by my Illness, “ which was temporary, that though I was *not able* to go “ to Quarters instantly, far less *on Board Ship*, yet, in all “ Probability, I would be able *before* any Ships *could move*, as “ there appeared to be no immediate Demand at present;” which I humbly conceive can mean no other Thing, than Ships moving from Quarters; the Commanding Officer could send an Officer *on Board* with the Detachment, though sick, if the Captain of the Ship had no Objection, which I believe has been often done at other Divisions; but the Commanding Officer could not send an Officer, sick at the Time, a Passenger out of *England*, to a Ship at *Jamaica*, which does not come within the *Demand in common Course of Service*, but proceeds from an extraordinary Order from the Board of Admiralty; I only mention this to shew the *Propriety* of my Letters, and that I was willing to do every Thing possible to prevent any Officer after me, upon the Roster, being injured by going *out of* his Turn, as I was willing to do my *proper Duty* where Circumstances would admit it; but it seems I was not understood in this Manner; it would not have availed my Accusers, if I had desired, in express Words, to be sent to *Jamaica*, as *I could not go*, when prevented by Sickness.

MR. PRESIDENT and GENTLEMEN of the Court,

On the 8th Day of *March* last, about Three o’Clock, (never having heard from Colonel *Mackenzie* since his Letter, of the 7th of *December*,) I received his Order of the 4th, to set out to *Portsmouth* for the *Tartar*, under sailing Orders, to proceed to *Jamaica*, to be put on Board the *Prince Edward*; my Letter, of the 9th of *March*, was the Answer to this Order, which, I humbly conceive, was wrote with *great Propriety* on the Occasion, and so far *from disobeying* the Order, it mentions my *Inability to execute it*, at the same Time expressing a great Readiness to execute all Orders, when my Health would permit; but I was not able, nor durst attempt to comply with this Order, on account of the Sickness that I continued to labour under; This Letter, it appears, was

¶ Interruption by Colonel *Mackenzie* about this Letter—and the Court moved thereupon, and cleared accordingly. The Court find it a publick Letter.

transmitted

transmitted to their Lordships by Colonel *Mackenzie*, though, at the *same Time*, attended by the unprecedented Remonstrance of the Three Captains.

Mr. PRESIDENT and GENTLEMEN of the Court,

You see all along by my Letters, that the Commanding Officer was not ignorant of my Sickness, both from Letters and the Certificate from the Physician and Surgeon, neither were the Three Captains, who signed the Remonstrance, Strangers thereto; however, it seems they were determined on an Accusation of me, that I was only pretending Sickness to evade my Duty; for I conceive their Remonstrance can be construed in no other Meaning.

Mr. PRESIDENT, &c.

I shall beg Leave to make a few Observations on the Remonstrance, a Duplicate of which was sent to me by Captain *Cockburn*, with his Letter of the 12th of *March*, (which Duplicate, when compared by the Court with the Original, shewed some immaterial Differences *.)

Captain *Douglas* proceeded,

The Remonstrance begins, "Whereas in a Letter dated " the 9th Instant, from Captain *William Douglas*, not attending his Duty, on account of his Indisposition, and " with *Extracts* of his Letters at our Request, given us, are " of Opinion, that *they are* downright Equivocations of his " Duty;" what other Meaning can be but this, that all that Captain *Douglas* has said in his Letters, &c. especially that of the 9th, as to his Indisposition, is to evade his Duty by pretended Sickness; in case this should not plainly be understood, they observe towards the End, that they had been in the Service between seventeen and twenty Years, and never neglected their Duty when ordered, plainly implying, that Captain *Douglas* had neglected his; and immediately after they say, " how he should endeavour to impose on them,

* Note, The Words between the Parenthesis, are put here as from Captain *Douglas*; but it was the Answer by the Court.

* Note, Captain *Douglas* observed that the Original appeared *witiated* and *erased*. Vide Duplicate to compare with Original. Vide Duplicate, " it is." Vide Original,---" They are" with an s. to Equivocation.

“ they cannot account for.” I conceive there *can be no* Negligence of Duty, if an Officer is prevented from doing it by Sickness, or other evident Necessity, as is contained in my Letter, of the 9th of *March*; it is therefore plain, that they can mean no other, than that Captain *Douglas* is not sick, only pretending to be so †.

MR. PRESIDENT and GENTLEMEN of the Court.

I shall now beg Leave to call some Witnesses to prove, that I was not in a State of Health to admit my coming to Quarters, or to do Duty, from the 30th of *November* to the 1st of *April*, and that will correspond with my Letters.

Captain *Douglas* desired the following Witnesses might be examined in support of his Defence.

Doctor ROBERT KNOX Physician to his Majesty's Hospitals for the Army, being sworn, was examined.

Q. (By Captain *Douglas*) Did not he attend him from the Beginning of *November* last?

A. He did.

Q. Was he in a proper Situation to repair to Quarters, or to do his Duty, to the 31st of *March*?

A. He does not think he was.

Q. Did not he advise him to go out at Times to take the Air?

A. He did, several Times, in a Chair, and once in a Coach.

Q. Whether he did not hear Captain *Douglas* express himself in an anxious Manner to get to Quarters?

A. He did.

Q. Did not he give a Certificate directed to the Commanding Officer at Quarters, dated the 1st of *December* last, signed also by Mr. *Smith* Surgeon, of Captain *Douglas*'s then Situation of Health.

A. He did.

Captain *William Douglas* desired the Certificate to be produced, and this Witness asked, if it was the original one

† Note, Captain *Douglas* then desired to be informed by the Court, whether they did not understand the Remonstrance in that Light? The President answered, “ They did understand it in that Light, and in no other.”

N. B. Captain *Douglas* calls his Witnesses to prove it false.

signed

signed by him? The Certificate was shown to the Witness, who said it was.

The Witness acquainted the Court, that it would be very inconvenient to continue at this Place, till the Trial of the Three Captains, and prayed to be dismissed, which was granted by the Court.

Captain *Perkins* then desired Leave to cross-examine the Witnesses at this Time, as he would not have an Opportunity of doing it, when he came upon his own Trial.

The Court being cleared, the Question was put, Whether Captain *Perkins* might be permitted then to examine the Witness, Doctor *Knox*, in some particulars, that might be necessary for his Defence?

The Court was of Opinion, that it might be permitted.

Q. (By Captain *Perkins*) Did Doctor *Knox* attend Captain *Douglas* daily, between the Months of November 1763, and April 1764?

A. When his Complaints were bad, he visited him daily, and as often as it was necessary, during the Period mentioned in the Question, sometimes some Days intervened betwixt the Visits, but, to the best of his Knowledge, he saw him every Week during that Time.

Q. Was Captain *Douglas* extremely ill during all that Time?

A. He apprehends that Question is answered already, when he mentioned his being incapable in that Time, of executing any Military-Duty out of Doors.

Q. Of what Nature was his Complaint during the fore-mentioned Time?

A. The first Complaint he saw him in was a Rheumatick Fever, which continued for several Weeks, then remitted; after which he had an attack of a purging of Blood, when that was stopped, the Gout fell into both his Hands, which was his last Complaint, and continued with *Wasting and Debility* till the 31st of March

Q. Whether during the Time that Captain *Douglas* had the Complaint of the Gout, he was not able to take a Journey of Six Hours to Quarters, or at any other Time between

Note, It is necessary to observe here, that a Mr. *Kirke* attended as Council, or Assistant, to the Three Captains, and stood close behind Captain *Perkins*, prompting him on this Occasion.

the Month of *November* 1763, and *April* 1764, without endangering his Life?

A. He cannot take upon himself to say, that such a Journey would have endangered his Life, but, as a Physician he says, it would have endangered his future Health.

Q. Whether Captain *Douglas* was ever at Mr. *Knox's* House during the aforesaid Period, and how often?

A. Never but once or twice, to the best of his Knowledge, and that was in a Chair, and by his Advice and Desire.

Q. How long might Captain *Douglas* stay at a Time, at his House at these Visits?

A. Three, Four, or Five Hours, but he cannot charge his Memory with the particular Time.

Q. What is meant by a temporary Illness?

A. He does not think it a proper Question for him to answer.

Captain *Douglas* then desired to give his Meaning of that Word as follows :

That by a temporary Illness he meant, that the Illness was not such as would render him an Invalid, always unfit for Service, but only for a Time †.

Mr. ROBERT SMITH Surgeon, being duly sworn, was examined.

Q. (By Captain *Douglas*) Did not he attend Captain *Douglas* in his Sickness, from the Beginning of *November* 1763, to the latter End of *March* 1764?

A. He did.

Q. Was not Captain *Douglas* very ill mostly, and, for the whole Time, unable to do his Duty with any Degree of Safety?

A. From about the Middle of *November*, when his Rheumatick Fever made its second attack, it was humbly his Opinion, that he was quite unfit for Duty.

Q. Did he not advise Captain *Douglas*, at Times when the Weather was moderate, to go out and take the Air?

A. When his Disorders which appeared in different Shapes, and the Weather would permit, he did advise Captain *Douglas* so to do.

† And that, when he recovered from his Illness, he would be as able to do his Military Duty, as he did before.

Q. Whether

Q. Whether Captain *Douglas* did not at Times express to him an Anxiety to get to Quarters to do his Duty?

A. He did.

Q. Whether Captain *Douglas* did not often Visit him at his House, before he fell ill?

A. He did.

Q. Whether Captain *Douglas* was ever at his House after the Middle of November?

A. Not, consistent with his Memory.

Mr. *Smith* acquainted the Court, that it would be very inconvenient to him to continue longer here, therefore desired to be dismissed.

Captain *Perkins* then desired Leave to cross-examine him, as he would not have an Opportunity of doing it, when he came upon his own Trial, if he was dismissed.

Captain *Perkins's* Request was granted.

Mr. SMITH further examined.

Q. (By Captain *Perkins*) Did he attend Captain *Douglas* daily from the Month of November 1763, to April 1764.

A. He has attended him sometimes twice a Day, but not daily through the whole Period mentioned, as his Disorder did not require it.

Q. What was the greatest Space or Interval betwixt the Visits during that Time?

A. He cannot answer it precisely, but he thinks not exceeding Three or Four Days.

Q. Was Captain *Douglas* never abroad during that Period, from November to April last, to his Knowledge?

A. He never saw him abroad, to the best of his Remembrance, during that Period.

Q. Was Captain *Douglas* always at home, when he visited him as a Surgeon, during that Period?

A. He has upon some Occasions visited at * Captain *Douglas's* Lodgings, when he did not see Captain *Douglas*, but was told that he was upon the Bed.

Q. In the several Times he attended Captain *Douglas*, during his Illness in the said Period, what Operations did he perform in the Chirurgical Way?

* Mr. *Smith* was acquainted with, and visited the People of the House.

A. Bled him once, but is uncertain whether it was in *October* or *November* last, and, in the said Period, gave him several * Medicines.

Q. Was Captain *Douglas* so ill, from the Beginning of *November* to the latter End of *March*, as not to be able to take a Journey of six Hours, without endangering his Life?

A. On some Occasions, at the Beginning of the *Rhumatick* Disorder, such a Journey might have endangered his Life, and also at some other particular Times of his Disorder in the same Period, but at some other Times, he might perhaps have taken such a Journey, without endangering his Life, but not consistent with his Health.

Q. If Air and Exercise was necessary, was not the Country most adviseable for him, in his temporary Illness?

A. He did advise Captain *Douglas* to take the Air when the Weather would permit, but he did not think it would have been adviseable for Captain *Douglas* to take a Journey into the Country, at that Time of the Year.

Q. At what Distance did he live from Captain *Douglas's* Lodgings in *London*?

A. He lives in *Great Pultney Street*, and Captain *Douglas's* Lodgings were in *Spring-Gardens*.

Q. Whether Mr. *Smith* can explain what is meant by occasional or temporary Illness?

A. He does not pretend to explain the Terms Captain *Douglas*, or any other Person, may have occasion to use.

Q. (By Captain *Douglas*) Is the Certificate shewn, the original one signed by him, dated the 1st of *December* 1763?

A. It is.

Captain *Douglas* desired Leave to call a Witness to his General Character, as it would be inconvenient to the Gentleman to stay longer at this Place.

CAPTAIN PETER PARKER, of the Royal Navy, being sworn, was examined.

Q. (By Captain *Douglas*) Did he succeed Captain *Leslie*, in the Command of the *Bristol*, in the *West-Indies*?

A. At *Guardaloupe*, in *January* 1759, he succeeded Captain *Leslie* in the Command of the *Bristol*.

* Many strong Medicines.

Q. Did not Captain *Douglas* serve under his Command in that Ship?

A. Yes.

Q. What did Captain *Leslie* say to him, in regard to Captain *Douglas*, upon his succeeding him in the said Command?

A. Captain *Leslie* gave him an extreme good Character of Captain *Douglas*, and, when he took the Command, he found the Marines as well disciplined, and in all Respects as well appointed as any Marines in the Squadron, and he never gave Captain *Douglas* any Orders, that were not immediately and punctually executed.

Q. If he knows from the Ship's Books, the Time he came to the *Bristol*, and from whence?

A. Captain *Douglas* entered on Board the *Bristol*, the 10th of April 1756, from the *Prince George*, agreeable to his Memorandum, he has taken thereof, from the Books.

Mr. JOHN HARE Perukemaker in *London*, being sworn, was examined.

Q. (By Captain *Douglas*) Did he attend Captain *Douglas* from the Beginning of *November* last, to the 31st of *March*, as a Barber to shave and dress him?

A. He did three or four Times a Week, constantly.

Q. Had he not Reason to think Captain *Douglas* was ill, from his own Observation, during the said Time?

A. He had Reason to think, while he attended him, that Captain *Douglas* was very bad.

This Witness, being under a Necessity of going to *London*, Captain *Perkins* desired, and was permitted to cross-examine him for the Purpose of his own Defence, when he shall come upon his Trial.

Mr. HARE cross-examined.

Q. (By Captain *Perkins*) Has he not frequently dressed Captain *Douglas*'s Hair, and how often between the Months of *November* 1763, and *April* 1764?

A. He has frequently dressed his Hair in that Time, in order to appear properly in the House, but cannot tell how often.

Q. Whether he is frequently called to dress Gentlemens Hair, who are indisposed, and confined to the House?

A. Yes †.

The Court was adjourned till *Wednesday* Morning at Nine o'Clock.

WEDNESDAY, the 9th of MAY, 1764.

THE COURT-MARTIAL met according to Adjournment,

Captain DOUGLAS proceeded in his Defence :

MR. GEORGE DOUGLASS Fort-Adjutant of *Berwick-Upon-Tweed*, being sworn, was examined.

Q. BY Captain *Douglas*, Did he often come to see Captain *Douglas* between the 1st of *November* and the 31st of *March* last ?

A. He did.

Q. Was not Captain *Douglas* ill during all that Time ?

A. Very ill.

Q. Did he not often see Captain *Douglas* obliged to go to Bed after Dinner, because he was not able to sit up ?

A. He did.

Q. Did not Captain *Douglas* often send him upon Business of Consequence to a Person, to whom he could not go himself with Safety, though only a-cross the Street ?

A. He did very often.

Captain *Douglas* rests the Proof of his Defence, in regard to his Sickness *.

Colonel MACKENZIE again examined.

Q. (By Captain *Douglas*) How did Captains *Cockburn*, *Perkins*, and *Hayes*, get the *Extracts* of Captain *Douglas's* Letters † ?

A. Captain *Cockburn* desired to have the *Extracts* of Captain *Douglas's* Letters, to enable him to make a fair Remonstrance to the Admiralty of the Reasons why Captain *Douglas* did not take his proper Tour of Duty, which must necessarily

† A. Yes, Gentlemen chuse to be clean in the House as well as abroad.

* There were two other Witnesses, but the Court thought it needless to examine them.

‡ To Colonel *Mackenzie*.

affect and hurt him; *which Extracts* were delivered to him publickly in the orderly Room by the Adjutant in the Presence of several Officers, and were publickly known at the Division.

Q. Was the Remonstrance brought to him by one or all three of the said Captains.

A. It was brought to him by Captain *Cockburn* on a Sunday, he thinks the 11th of *March* last.

Q. Did Captain *Cockburn* desire the Remonstrance to be sent to the Admiralty?

A. He did, and his Letter to Colonel *Mackenzie* desiring it was produced and read.

Captain *Douglas* then desired that what he had delivered to the Court in his Defence might be read over to him, in order to avoid making Repetitions in what he thought necessary to add.

The same was read.

Colonel *Mackenzie* then begged Leave of the Court to observe, that Captain *Douglas*, in his Defence, had called his Letter of the 6th of *December* to Colonel *Mackenzie*, a private Letter, (Paragraphs of which have been read) which he cannot but consider as a Censure upon him for making it publick, therefore desired the Favour of the Court to read the said Letter, and give its Opinion, whether it can be looked on as a private or publick Letter, as he always considered it as a publick one.

The Court was cleared †, and the Letter read, the Question was put, whether the Letter ought to be looked upon as a private or a publick one.

The Court was unanimously of Opinion, that it was a publick Letter §.

Captain *Douglas* acquainted the Court, that he intended it as a private Letter upon Colonel *Mackenzie's* returning the Certificate, which Transaction he meant should not be publick *.

† Note, The Court was cleared only *once* this Day, before they cleared to give Sentence, and that was on Captain *Douglas's* Motion to silence Colonel *Mackenzie*, accompanied with his Request.

§ The Interruption about this Letter was the Day before at the Word private Letter of Captain *Douglas's* Defence, and prior to the Examination of his Witnesses.

N. B. There is a wide Difference between producing a whole Letter, and giving partial Extracts out of it.

* Captain *Douglas* observed " that he meant it as a private Letter, and that Colonel *Mackenzie* had made it a publick one, by publishing it."

Colonel *Mackenzie* then desired Leave further to observe to the Court, that as Captain *Douglas* seemed to censure † him for returning his Certificate to him, he desired Leave to give his Reasons for so doing, either to be introduced in the Course of the Proceedings, or to be laid before them in a detached Paper to be annexed to the same ‡.

The Court being cleared and Colonel *Mackenzie's* Request considered, was of Opinion that the Proceedings of the Court should not be further interrupted, but that Colonel *Mackenzie* might give in to the Court in a detached Paper such Observations as he might think necessary for his Vindication to be annexed to the Proceedings of the Trial.

Captain *Douglas* acquainted the Court, that what he had mentioned he thought necessary for his Defence §, but intended no Reflection on Colonel *Mackenzie* *.

He then proceeded thus :

I beg Leave to acquaint the Court, that my Reason for not sending the Certificate || of the State of my Health upon receiving Colonel *Mackenzie's* Orders of the 4th of March was, because there was to be a General Court-Martial, where the Physician and Surgeon would be examined on Oath.

Mr. President, and Gentlemen of the Court,

You have now heard the Witnesses examined in regard to my Sickness, who have given their Evidence, I humbly hope, in a clear and distinct Manner concerning my Illness from the Beginning of November to the 31st of March last, which I hope will prove fully satisfactory to this Court-Martial, as to the Reality of my Sickness, and Disability to do Duty

† The Censure on Colonel *Mackenzie* for returning Captain *Douglas's* Certificate was the second Paragraph of Captain *Douglas's* Letter of the 6th of December, as he observed to the Court.

‡ As this was the third Time that Colonel *Mackenzie* had taken upon him to interrupt Captain *Douglas* in his Defence, and the Proceedings of the Court, he found it necessary, as well for the Sake of the Justice, as of the Regularity of the Proceedings of the Court, to move "to silence Colonel *Mackenzie* for the future, except when on Oath;" and Colonel *Mackenzie's* Request followed thereon, and he was silenced accordingly as above.

§ That he was not attacking Colonel *Mackenzie*, because he was not trying. It is left to the whole Tenor of Captain *Douglas's* Defence, as well before as after this, whether Captain *Douglas* concerned himself, if by investigating the Truth any Reflection was laid on Colonel *Mackenzie*, or any one else.

* Captain *Douglas* was establishing Facts in his Defence, that were extremely necessary, and if they any Way affected Colonel *Mackenzie*, it was intirely the Consequence of his own Conduct.

|| There could be no other Certificate till Captain *Douglas* got an Answer to his Letter of the 9th of March.

during

during that Time, and will be a Means of the Court giving such a Sentence, as may fully clear me from the Imputation contained in the Remonstrance, and the Charge of Disobedience to Orders and Absence without Leave, in consequence of the *singular* Remonstrance, equally unprecedented, both in *the Nature of it*, and *the Manner* in which it *has been transacted*, which to clear myself from must be more owing to my Innocence, and the Justice of the Court, than *any thing else*, and I hope it will be found not at all unlucky that this happened upon me, in the real Circumstances of my Case, and may be a Means of preventing such Behaviour for the Future *; I hope the Court will be pleased to consider the Nature of this Accusation, that, at the Time when an Officer who was sick in *London*, and had taken all the *proper Methods* to acquaint the *Commanding Officer* with his Illness, he should have *such a Complaint* transmitted against him to the Lords of the Admiralty, without his having any *previous Intimation*, after his *Letter* of the 9th of *March*, acknowledged to be before the Captains in this Remonstrance, is a *Thing* I believe *new and extraordinary*. It gives me great Concern to be reduced to the Necessity of bringing this Affair before a General Court-Martial, but there was no *other Step* left for me to take to *clear myself*; I humbly hope the Court will find *all my Letters and Conduct* during the whole Affair, to be *proper* on the Occasion, and that *these Letters* shewed a strong Inclination to do my *proper Duty*, if there had been a Possibility of my doing so, and not *prevented by Sickness*.

Mr. President, and Gentlemen of the Court,

I think it unnecessary to lengthen out my Defence by adding any thing further, but leave it to the Decision of the Court, who, if my Innocence shall appear, will do that Justice to my Reputation which I have Reason to expect from Judges of Honour and Discernment, therefore beg Leave to close my Defence.

Captain *Douglas* then observed; that many Persons who have heard of the Charge that has been brought against him might not have had Opportunities of knowing his former Conduct and Character, he therefore desired the Favour, that the Court would hear his Character from two Gentlemen, who have long had Opportunities of knowing him;

* It is necessary to observe that there was a Stop here, Captain *Douglas* being so ill he could not proceed, and obliged to move for Leave to withdraw for some Time.

and

and also desired that the Court would permit some Letters to be read on the same Subject, from Gentlemen with whom he had served; both which Requests were granted.

The two Gentlemen, Major *Claud Hamilton* of the *Chatham* Division of Marines, and Lieutenant *Wadam Osborn* of the Royal Navy, were heard; and the Letters were read from the following Gentlemen, viz.

Colonel <i>Robert Melvill</i> , Governor of the <i>Granadoes</i> .	
<i>Thomas Hamway</i> , Esq; Commissioner of the Navy.	
Captain <i>John Montagu</i> ,	} of the Navy.
Captain <i>Lockhart Ross</i> ,	
Captain <i>Charles Middleton</i> ,	

And all agreed †, in representing Captain *Douglas's* Character unexceptionable, as an Officer and Gentleman; and the Writers of the Letters declare therein, that they would have personally attended his Trial if their Affairs would have permitted them.

All Persons then withdrew.

The Opinion of the Court was then taken, whether they should pass Sentence upon Captain *Douglas* before or after the Trial of the three Captains; the Court agreed to proceed to the Sentence on Captain *Douglas* before the succeeding Trials.

THE Court Martial, upon due Consideration of the *whole Matter* before them, is of Opinion, that Captain *William Douglas* is not guilty of a Wilful Absence from Quarters and Disobedience to Orders, and that his Sicknes was a sufficient Reason for not attending his Duty; therefore the Court acquits him *with Honour*.

RICH^d. BENDYSHE, *President*.

The Court adjourned till *Thursday* Morning at 10 o'Clock.

† *Vide* Letters No. 1, 2, 3, 4, 5, &c. annexed herewith.

THURSDAY

THURSDAY MAY 10th, 1764.

THE COURT being met according to Adjournment,

The Warrant was read for the Trial of the Captains *George Cockburn*, *James Perkins*, and *John Hayes*, of the *Chatham* Division of Marines.

IT being observed that Captain *Perkins*'s Christian Name was *John* in the Warrant, whereas it is *James*; he was asked by the Court if he objected to being tried, as there was such a Mistake of his Name in the Warrant, tho' he is therein pointed out as one of the Captains who signed the Remonstrance.

Captain *Perkins* made no Objection to be tried.

Captain GEORGE COCKBURN, Captain JAMES PERKINS, and Captain JOHN HAYES, of the *Chatham* Division of Marines, came Prisoners before the Court, and the following Charge was exhibited against them, viz.

“ **W**Hereas Captain *William Douglas* of the *Chatham* Division of Marines has asserted, that a Remonstrance signed by the three Captains, *George Cockburn*, *James Perkins*, and *John Hayes*, contains a false and malicious Accusation, and requested of the Lords Commissioners of the Admiralty, by his Letter, of the 14th of *March* last, that the said Captain *George Cockburn*, Captain *James Perkins*, and Captain *John Hayes*, may be tried at a General Court-Martial, for having falsely and maliciously accused him, and thereby behaved themselves in a manner unbecoming the Character of Officers and Gentlemen.”

“ The said Captains, *George Cockburn*, *James Perkins*, and *John Hayes*, are therefore now to be tried —
“ For falsely and maliciously accusing Captain *William Douglas* of the *Chatham* Division of Marines, and thereby behaving themselves unbecoming the Character of Officers and Gentlemen.”

Captain *Douglas*'s Letter of the 14th of *March* last to the Secretary of the Admiralty was read, of which the following is a Copy, viz.

London,

London, March 14, 1764.

SIR,

“ BE pleased to lay before my Lords Commissioners, the
 “ *inclosed Copy* of a Remonstrance (a Duplicate of which
 “ I have sent me from Quarters) *made to* their Lordships
 “ against me, by Captain *George Cockburn*, Captain *John Hayes*,
 “ and, as they assert, by Captain *Perkins*, of the *Chatham* Di-
 “ vision of Marines; at it contains an Accusation, false,
 “ malicious, and highly injurious of a Reputation I have
 “ been at some Pains to establish, during a Service of Twenty
 “ Years; and as the said Captains have rashly made a *public*
 “ *Matter* of it, without giving themselves Time *privately* to
 “ enquire into the Merits of the Cause; I am under the
 “ Necessity in *mere Self-Defence* hereby to desire that their
 “ Lordships may order a General Court-Martial *to try me*,
 “ that I *may clear* my Character of *their false Imputation*; and
 “ the above-named Captain *George Cockburn*, Captain *John*
 “ *Hayes*, and Captain *Perkins*, if he has signed the unprece-
 “ dented Remonstrance in Question, may by *the same* Ge-
 “ neral Court-Martial be tried for having falsely and mali-
 “ ciously accused me, and thereby behaving themselves in a
 “ Manner unbecoming the Character of Officers and Gen-
 “ tlemen. I am, Sir,

“ *Your most obedient humble Servant,*

“ On his Majesty's Service.

“ WILL. DOUGLAS.

“ To *Philip Stephens*, Esq;”

The Remonstrance * was then read, a Copy of which is already inserted in the 17th Page.

Captain *Douglas* then delivered himself to the Court as follows :

Mr. President, and Gentlemen of the Court,

I am truly sorry to give you the Trouble of the following Trial, after the great Indulgence you have favoured me, with during my own, but this Affair was in Appearance to me at the Time of so bad a Nature, that I thought I should, neither have done Justice to my own Reputation, injuriously and publickly attacked, nor to the Service, if I had not given the said Captains a Chance of falling into the *same Pit*, they

* The Duplicate inclosed in Captain *Douglas's* Letter of the 14th of March was read on this Occasion,

were † in so rash and unprecedented a Manner in Appearance contriving for me. It is but just and necessary, and more especially when it is considered, in what *Manner* the Complaint was made, directly to the Commanding Officer, and immediately transmitted to the Lords of the Admiralty, without their giving me the smallest Notice thereof until it was done, and by that Means, not in my Power by *any Steps* to prevent, considering at the same Time my then Illness. It always has been my good Fortune to do my own Duty during a long Service, and it has always been my Wish to do so. The Extracts out of my Letters, so far from giving *any Grounds of Complaint*, ought to have prevented even a Representation as to my Duty, far less such a one, containing an Accusation of so high a Nature, as to *bring on me* the heavy Charge of Disobedience to Orders, and Absence without Leave. The Remonstrance itself is of so singular a Nature both in the *Stile and Manner* of it, that it is necessary to make some Observations on it, which I beg Leave to do, though it will be unnecessary to insert them here, as they already appear in my Defence (in Page 32 and 33).

That the Accusation contained in the Remonstrance is false I hope is evidently proved, beyond Contradiction, by my Evidence concerning my Sickness, as to the malicious Intent, the Remonstrance itself may be considered partly in *that Light*, and some Things may * appear upon Evidence to that purpose: I cant help mentioning the cross Examination on three of my Witnesses on the 8th, if it may be construed in that manner. I am truly unwilling to be severe, I only wish I could be less so, with any Propriety to myself: The Justification of myself, in the most ample Manner, was always my chief Aim, therefore I don't chuse to say any thing further that may only serve to enflame. It must be admitted these three Captains being tried is entirely their *own Seeking*, and I shall leave their Sentence to the *Humanity* as well as *Justice* of this General Court-Martial.

I refer to what I have produced in my own Defence to prove that these Gentlemen, when they *sent* the said Remonstrance, were, by the Extracts of my Letters communicated to them, acquainted with my Illness, but I shall add nothing further upon this Subject, unless the said three Captains shall give me Occasion by their Defence to make a Reply,

† Extract from Captain Douglas's Minutes, viz. "they were in so rash and unprecedented a Manner contrived for me."

* Has appeared.

in that case I beg Leave to call such Witnesses as may be necessary to support § the Charge I brought against them.

Captain * COCKBURN was then called on his Defence, and desired the following *Papers* might be read † as his Defence, and referred also to what he said, and the Evidence of the Witnesses he called as is inserted in the preceding Trial, Page 18.

The Request was granted.

Copies of Captain Cockburn's Papers as follow :

Mr. President, and Gentlemen of the Court,

I am heartily sorry any Affair I am concerned in should have been considered in such a disadvantageous Light as to give Trouble by bringing it before you : This Sentiment leads me to premise to the Court, that I never meant (nor do I believe the other Gentlemen did) any real Hurt to Captain Douglas by remonstrating. For my own Part, I do not recollect that I ever conversed or had any Communication with him whatever ; and consequently could not have any malicious Intent in what I did ; I only wanted (and so did they) he should do his Duty in his proper Turn, and that was my only Motive for signing it ; which the Extracts from his Letters (already laid before the Court) and hearing he was seen walking abroad in seeming Health, which Captain Perkins told || me he saw, sufficiently authorised me to do. And my Reasons for so acting will appear stronger when I tell the Court, that I was next in Duty to Captain Douglas, and likely to be very greatly aggrieved ‡ by being sent on his Duty to the *West Indies*, from which I returned not much above ten Months ago, in a very bad State of Health, so that it is not to be wondered at that I took every reasonable Step in my Power to procure Redress against so apparent an

§ Extract from Captain Douglas's Minutes (*wrote* by the Judge Advocate) in Court, *viz.* " I refer to what I produced in my own Defence to prove, that these Gentlemen made and sent the said Remonstrance, and were by the Extracts of my Letters communicated to them, acquainted with my Illness ; but if the Captains by their Defence should give me Occasion to make a Reply, I beg Leave then to call such Witnesses as may be necessary to support it."

* Here Captain Cockburn applied for Leave to use the Paper he gave in when on Oath.

|| *Vide* Question at the End to Captain Perkins.

‡ Captain Douglas was taking the proper Steps to prevent any being injured by his Sickness.

Injury. Yet if there be found any Phrase in this Remonstrance, that is thought injurious to his Character, I sincerely wish it had been omitted. However, since I am called on to account for any Charge therein contained, the harshest expressions in it, I presume the Court will find, as far as relates to Opinion, to be justifiable on the most solid Principles of Reason and common Sense, and my foundation For thinking so is deduceable from Facts, which have already been offered to the Court.

GEORGE COCKBURN.

Mr. President, and Gentlemen of the Court,

I * must now beg Leave to observe, that when myself, Captains *Perkins* and *Hayes*, wrote † our Letter to their Lordships of the 11th of *March* last, complaining of Captain *Douglas's* Absence from Quarters, we had not the least malicious Thought, or ill-natured Intent, against Captain *Douglas*; nay, upon Honour, we never had; all we meant was, that Captain *Douglas* should repair § to his Quarters, and do his Duty agreeable to the Roster, and take his proper Turn in case of being order'd on Sea Service, which actually happened; and this, and this only, occasioned our *hasty* Remonstrance; but when Captain *Douglas* returned to his Duty we were all of us intirely satisfied, and never wished, intended, or wrote for, any Court-Martial, or suspected such a Thing to happen, much less to be called on in the Light of Prosecutors or Evidence against Captain *Douglas*; on the contrary, we would have readily joined in any Act that could with Honour and Propriety been proposed by Captain *Douglas* to have prevented such a disagreeable Affair happening, and the Trouble you Gentlemen that compose this Court must of Necessity have upon the Occasion: And our only Wish now is, and we flatter ourselves, we shall be able to vindicate ourselves in regard to our † Letter of the 11th of *March* last to their Lordships, which we then thought ourselves under the Necessity of writing, and that we had just, very just Cause for so doing. And we apprehend it will appear that,

* This is the Paper read by Captain *Cockburn* when called on Oath.

§ The Admiralty's Order of the 3d of *March*, referred to in the Remonstrance, was for the first Captain on the Roster, to set out *directly* to *Jamaica*,

—Vide Rem.

† There was a Letter with the Remonstrance same Date.

Note, Suppose the Roster, on Examination, had been found wrong.

that very Act immediately † brought Captain *Douglas* to his Quarters, after near Eleven * Months Absence, with and without Leave, all which we flatter ourselves will fully appear to the Court, to whose impartial Judgment we with Pleasure and great Satisfaction submit ourselves.

GEORGE COCKBURN.

Captain PERKINS was then called on to make his Defence.

He begged Leave (which was granted) to read a Paper containing his Defence, which he delivered to the Court, as follows :

Mr. President, and Gentlemen of the Court,

On the 10th of *March* Captain *Cockburn* came and acquainted me, that he was put in Orders to hold himself in Readiness for Sea Duty ; he was apprehensive that he should be immediately embarked on board the *Tartar* in the room of Captain *Douglas*, whose † Duty it was by the *Rosier*, that he had applied to Colonel *Mackenzie*, and made known to him the Hardships it would be in case he should be obliged to go, as he could not be supposed to be prepared, at so short a Notice, for a foreign Voyage, who told him, that if he thought himself injured, he might consult with the other Captains upon it, as he imagined it concerned the Whole, then asked me my Opinion, and whether I was willing to join in a Remonstrance to the Admiralty in Behalf of ourselves, and to request Leave that Captain *Douglas* might be ordered for his proper Tour of Duty ; and as he had made no voluntary Attempt to repair to Quarters, or giving a satisfactory Answer, as was expected from him, on such a particular Occasion, and his being so long absent, gave us room to suspect, he had no Intention of complying with their Lordship's Order, which of course brought the next on Duty for this Voyage (and those after might on the same account be obliged also to go before their proper Turn) and to avoid it I agreed to the Remonstrance, as I could not but imagine a temporary Illness would favour him at different Periods suffici-

† It was twenty Days after before he came to Quarters.

* Captain *Douglas* left Quarters on Leave of Absence the 20th of *July* 1763, and returned the 1st of *April*.

† It is never alledged to be his proper Tour, but his Duty by the *Rosier*.

ently to repair to Quarters, in so long a Space of Time, without endangering his Life; and whereas a late Circumstance of a Captain at this Division, (being ordered for the same § Ship and Voyage) who was *justly suspected* to be capable of undertaking his Duty, notwithstanding he was *returned ill*, and escaped it, by Leave granted him to retire on Half-Pay, yet it has occasioned Murmurs and Complaints by the *rest of the Corps*; and ever since given *Reason* for strong Suspicions on Officers; and if Officers, who have been supposed to have had no *material Illness*, will act in *this manner*, how can we avoid *suspecting* those, who, for what we know to the contrary, may be endeavouring to do the same. It would *ill become me* to endeavour to *injure* any Brother Officer, *far be it from me*; it is not my Inclination (whatever Construc-tion may be put on the *Impropriety* of the Remonstrance) as I cannot but on mature Consideration, think it done rather precipitately, (as our Intention, I may venture to say, was only to request *the Officer for that Duty might be answerable for it* ||, and not designed materially to injure Captain Douglas, or even intended, in any ill-natured Manner, but the *hurry* we were then put in (the *Tartar* being under Orders for sailing) *called on us for immediate Redress*, which deprived us of our Intention to send Captain Douglas *first Notice* of it; but on his repairing to Quarters soon after, and Captain Martin telling us, that Captain Douglas thought himself injured, and at the same Time seemed † to endeavour to compromise Matters, we willing to contribute, as much as was in our Power, to promote so good an undertaking, sent him a Letter, of the 5th of April, which, on his affirming, we were ready to acquiesce in any Thing becoming Officers to comply with, and very *ready to forward that Harmony* necessary to subsist amongst us.

On Receipt of our Letter, Captain Douglas sent his Compliments by Major Smith ‡, who told us he should be sorry to be guilty of any ill Manners, but that he could not tell how to answer our Letter properly in Writing, by which we found our good Intentions rejected, and therefore we were obliged to refer it to the Decision of a General Court-Martial.

J. PERKINS.

§ The *Prince Edward* before she left Quarters, on November 1st and 6th, 1763.

|| According to this, Captain Douglas was to do the Duty as on the Roster, whether it should be found on Examination to be his *proper Tour* or not.

† Captain Martin might likely. ‡ As I don't chuse to be guilty of ill Manners, acquaint them I have received their Note.

Captain *Hayes* was then called to make his Defence, who delivered a Paper, and desired it might *be read* by the Judge-Advocate, as his Defence, which was granted, and the following is a Copy thereof, *viz.*

MR. PRESIDENT, and GENTLEMEN of the Court,

What I have to say in my own Vindication for signing the Remonstrance, of the Eleventh of *March* last, to the Lords Commissioners of the Admiralty, relative to Captain *William Douglas's* Absence from Quarters four Months without Leave (which we call an Imposition of extraordinary Duty upon the Captains present) is, that by the Stile and Manner of Expression of his Letters to the Commanding Officer and Adjutant, *Extracts* of which were *produced to me* by Captain *Cockburn*, I did not conceive Captain *Douglas's* Indisposition so violent as to prevent his coming down to Quarters for four Months successively; and besides, Captain *Perkins* told me, he had seen him in *London*, to all Appearance in tolerable good Health, though he did not particularly mention the *Time when*, which induced me to think not long ago; and by common Report I had heard, that Captain *Douglas* had often been seen abroad *during his Absence*, which inclined me to believe, that he might apprehend his Illness to be more dangerous than it really was; therefore I thought it necessary, that the Nature of it should be fully enquired into, which was all I intended in joining in the above-mentioned Remonstrance, as to the Words, Equivocation of Duty, which Captain *Douglas* seems to lay so great a Stress upon, the Light I looked upon that Phrase in, was, that some of the Expressions in his Letters *seemed to me* to be *doubtful*, or equivocal, as of his Illness, which he himself calls *temporary*, or of *short Duration*, was only slight or *periodical*, and could not prevent his coming at least to Quarters, in consequence of their Lordships repeated Orders, though he possibly might not be altogether fit for Sea-Duty, nor can it, I humbly conceive, be any other Way construed into a false and malicious Accusation, as Captain *Douglas* has represented it, and I hope the Gentlemen of the Court-Martial will be pleased to allow that the Lords Commissioners of the Admiralty themselves, *never seem* to have been satisfied with the *Reasons* Captain *Douglas* gave for his Absence, as they did by a Letter dated, I think, the † 3d of *March*, to the Commanding Officer at

† The Order for the first Captain on the Roster, to go in the *Tartar* to *Jamaica*, was dated the 3d of *March*.

Quarters,

Quarters, require him to acquaint their Lordships; *why* Captain Douglas was so long absent *without Leave*, notwithstanding a *Certificate* of his ill State of Health, which he had some Time before sent to the Commanding Officer at Quarters, and by him transmitted to their Lordships, was, I believe, then lying before them, which I presume they never paid any Attention to; which Proceeding of their Lordships, I hope may be admitted as a Reason for the seeming Harshness of one Expression or two in the Remonstrance; I meant not to reflect on Captain Douglas's Character as an Officer (I believe it to be above any Reflection) though he might possibly be mistaken in the present Case, by fancying himself in a more dangerous State of Health than he actually was, especially as both his Physician and Surgeon have declared in their Evidence, that he might have come down to Quarters, without any ill Consequences as to his Life *, therefore the Accusation (as Captain Douglas terms it) contained in the said Remonstrance, will not, I humbly presume, be looked on as false and malicious; as I conceive it to be the Duty of every Officer to join his Corps as soon as possible, even at the Risque of his Life, if absent from it without Leave, and ordered thereto by his Superiors, as was the Case with Captain Douglas; Malice I am sure I could have none against him, as I never saw Captain Douglas in my Life, till his late joining the Division. If then the heavy Charge of a false and malicious Accusation is confuted by the above Reasons, and the Proofs offered in Court, as I hope the Gentlemen of the Court-Martial will be of Opinion it is, the other of behaving unlike Officers and Gentlemen, naturally falls to the Ground, which I beg the Court likewise will consider. I acknowledge it to have been rather precipitate to remonstrate directly to the Lords of the Admiralty, without previously acquainting Captain Douglas, but Captain Cockburn being put in Orders to hold himself in readiness for Sea-Duty, and apprehensive of going on board the *Tartar*, in the Room of Captain Douglas, who had excused himself on Account of his ill State of Health, and which Ship was to sail immediately for *Jamaica*, obliged us to that Precipitancy; and as the Tour of Sea-Duty would thereby have come sooner upon the other Captains, it became a common Cause to us all to remonstrate to their Lordships, that Captain Douglas, if able, should be ordered to that Duty.

* Vide Doctor Knox and Mr. Smith's Evidence.

All which is humbly submitted to the impartial Judgment of the Court.

J^N^O. HAYES.

Captain *Perkins* then desired Leave of the Court to read a Paper which he called a *General Defence* of the three Captains, which was permitted, and copied as follows, viz.

Mr. PRESIDENT, and GENTLEMEN of the Court,

The cruel Epithets of *false* and *malicious*, that Captain *William Douglas* has affixed on our remonstrating against him; we flatter ourselves, will at first View, from the *very Remonstrance itself*, appear to the Court to be unjust and groundless, and to be nothing else but the Effects of pure Resentment; we do not pretend to stand up for the Propriety in the wording of the Remonstrance, it was done hastily, and we ourselves see and allow its Defects; but yet it is evident from it, that we founded our Opinion on his *own Letters* *, and his *absenting himself* from Quarters †; and since it is true, that he really wrote such Letters ‡, and was actually absent *without Leave* §, both being *Facts*, it follows clearly that *Part* of his Assertion, that relates to *Falseness*, stands absolutely and positively confuted; and, with respect to *Malice*, that is not even to be supposed; for how can one entertain *Malice* against a Person they *know not*? and it has appeared to the Court *some of us* were entire Strangers to him, and therefore *must necessarily* be exempted from that Charge; moreover, suppose we may have *erred* in our Opinion, any Misapprehension of that sort can neither affect our Characters as Officers or Gentlemen, for where is there one Gentleman that has not *erred in Judgment* on many interesting Occasions, without forfeiting that Character, or ceasing to be such? We now proceed to mention to the Court, that we have shewed from the Returns §, and Captain *Douglas's* own Letters ¶, that he was absent *without Leave* †, for a considerable Time, notwithstanding

* Partial Extracts given only.

† Captain *Douglas* left Quarters on Leave from the Admiralty.

‡ Vide Captain *Douglas's* Letters of the 12th and 17th of November, and Certificate.

§ This can only affect the Person who made the Returns, &c.

¶ Vide Letters No. 12th, 13th and 17th.

† He was absent without Leave, because no Leave was given on the Certificate.

he received a *positive* Order to repair to his Duty from *their Lordships*, whose Humanity and Goodness in granting Indulgences to Officers in cases of real Necessity, has been at all Times experienced by every Marine Officer that wanted it.

We have also shewn in our Remarks on Captain Douglas's Letters, (already laid before the Court) that they were wrote in a doubtful, equivocal, and procrastinating Stile; that, by his own Confession, his Illness was only temporary; that tho' he gave some Hints, in most of his Letters, to expect him soon * at Quarters, yet that he never came till forced by our Complaint against him to their Lordships †.

We now beg Leave to observe to the Court, that all we set forth in our *Remonstrance* ‖ against Captain Douglas, we only expressed as *Matter of Opinion*, and the End and *sole Design* of it plainly appears by our *only Request* to their Lordships, to order him to Quarters ‖, to do his Duty in his proper Turn; that *probable Arguments*, beget Opinion, is a Maxim universally received and acknowledged; and can there be stronger *presumptive Proofs*, or more weighty probable Arguments, in support of an Opinion, than what we have said above, affords in support of ours. But adding these, Captain Perkins ‡ *actually seeing* him walking abroad with the external Signs of Health, what before was only a well-founded Opinion, then approaches as near as possible to a plain obvious *Matter of Fact* §. — Thus we have shewn, putting ever the most *mild* Constructions on Things, that we could not avoid being of Opinion, that Captain Douglas aimed at *excusing* himself from his Sea-Duty † to our Prejudice, for that Reason we thought it incumbent on us, in Justice to ourselves, the Corps, and the *established Orders* §§ of their Lordships; to remonstrate as we did, and we hope the Court, from what we have offered, will adjudge that we had *just Cause* for so doing.

We farther beg Leave to observe, that any Proofs of Illness Captain Douglas has produced, or could now possibly produce, in Justification of his long Absence from his Duty, *without Leave*, (however much it may excuse him in the *Opini-*

* "As soon as his Illness would permit, or he should be advised he could safely do so."

† Note, Twenty Days after Captain Douglas came to Quarters.

‖ *Vide* Remonstrance and Order of 3d March referred to N^o. 21.

‡ Note, Before he fell sick.

§ *Vide* Question to Captain Perkins at the End.

† *Vide* Roster, No. 48.

§§ *Vide* Thirty-fifth Article of the Marine Regulations annexed.

nion of the Court for so absenting* himself) cannot weaken, or remove the fore-mentioned Foundation whereon we grounded our Opinion when we remonstrated, it not being to be supposed we could, in a supernatural Manner divine his Situation. We say we could judge from nothing but what we know, viz. his own Letters † and the Returns from Quarters, for if he was unable to repair to Quarters, it was nevertheless, most certainly his Duty, to employ every Means in his Power §, in proper Season, and from Time to Time, to shew to the Lords of the Admiralty proper Cause for their granting him further Leave of Absence, the obtaining of which would have effectually prevented the Suspicion he himself has incurred by his own Neglect or want of Method.

Before we conclude, we again repeat to the Court, that all we wanted, or desired, was, that Captain Douglas should do his Duty ||; and that it was far, very far, from our Intentions or Wishes, to occasion any essential Hurt to him, either as to his Bread or Character, and are very sorry he himself has brought Matters to this disagreeable Necessity.—We also declare, we shall sincerely rejoice if the Result ‡ of this does not produce Consequences to his Disadvantage, the rest we, with great Pleasure, leave to the Candour and Impartiality of the Court.

GEORGE COCKBURN.

J. PERKINS.

JN^o. HAYES.

The said Three Captains here rest their Defence.

Captain Perkins was then asked by Captain Douglas, When did he see him in London in seeming good Health? Captain Perkins answered, In September or October last, upon which it was observed, that September or October, was not within the Time limited in the Charge.

Captain Douglas made no farther Reply. ¶

* Absenting, means one going from Quarters without Leave, Captain Douglas could not repair there on Account of Sickness.

† Extracts only, given partially---Vide Letters.

§ Vide public Letters and Certificate inserted in the Proceedings.

|| According to their Lordships Order, dated the 3d Instant,---Vide Remonstrance and Order, Letter No. 21.

‡ This is worthy of Remark; Captain Douglas, though he could defend himself against any legal Harm, yet he, nor no Man, could guard against a Stroke of Power which could never be foreseen, without some previous Intimation.

Note, Mr. Kirke endeavoured (as he said) to make the most he could of a bad Affair.

¶ Extract from the 2d Article of the 14th Section of the Articles of War, viz. "The Judge-Advocate, or his Deputy, shall prosecute in his Majesty's Name."

Captain

The Court-Martial, upon due Consideration of the whole Matter before them, is of Opinion, That the Captains *George Cockburn*, *James Perkins*, and *John Hayes*, are not guilty of *designed Falshood*, or of *Malice*, to Captain *Douglas*, and the Court acquits them of *the same*: But the Court is of Opinion, that the Remonstrance made by the said Captains is ill worded and expressed in some Parts of it; therefore the Court doth *adjudge*, that the said Three Captains shall acknowledge the same, before the Commanding Officer at Quarters, in Presence of Captain *William Douglas*.

RICH^d. BENDYSHE, President.

Tuesday the 15th of *May*, when the Members of the Court were assembled to be present at signing the Proceedings, the Judge-Advocate acquainted the Court, that he had received a Letter from Colonel *Mackenzie* inclosing a Paper, which he desired might be introduced or appended to the Proceedings of the Court, in such Manner as might seem most proper to them, * agreeable to the Permission granted him by the Court-Martial. The said Paper *was read*, and the Members taking the Request into Consideration, were of Opinion, that it should not be annexed to the Proceedings, for the following Reasons: As the Proceedings and Sentence were closed, and as the Paper was *not given in* when Captain *Douglas* was present, to be annexed immediately after his Defence, before the Court proceeded to his Sentence; *the Members* therefore desired the Judge-Advocate to return the Paper to Colonel *Mackenzie*, and *acquaint* him with their Reasons, why they could not comply with his Request.

W^m. DAVIDSON, Judge-Advocate.

A true Copy,
PH^p. STEPHENS,
Secretary of the Admiralty,
13th of *November* 1764.

Extract

* *Vide* Page 43.

Note, The above is the Copy of the whole Proceedings certified by the Secretary of the Admiralty.

N. B. It is necessary to remark here, that Lieutenant-Colonel *John Mackenzie*, though only called as a Witness before the Court-Martial, did interrupt Captain *Douglas* several Times while on his Defence, and particularly on the 9th Day of *May* 1764, he interrupted the Proceedings of the Court, in a Manner equally indecent and illegal; and being thereupon called to an Explanation by a Member of the Court, particularly, whether he meant to attack the Faculty of Physicians and Surgeons, by the Manner he had expressed himself concerning their Certificates? And Lieutenant-Colonel *Mackenzie* having thereupon declared, that he did not mean to attack Physicians and Surgeons; hereupon Captain *Douglas* thought himself also obliged to call upon Colonel *Mackenzie* to explain

Extract from the Approval of the Lords Commissioners of the Admiralty.

“ WE do hereby signify to you, Our Approval of both
 “ the said Sentences, and require and direct you, to
 “ cause the Sentence against Captain *George Cockburn*, *James*
 “ *Perkins*, and *John Hayes*, to be carried into Execution.
 “ Given under Our Hands, the 6th Day of *June* 1764.”

“ Signed { EGMONT.
 G. HAY.
 CARYSFORT.”

“ To the Commanding
 “ Marine Officer at
 “ *Chatham*,
 “ By Command of their Lordships,
 “ Signed PH^p. STEPHENS.”

The above Sentence was accordingly carried into Execution at *Rochester*, on the 9th Day of *June*, by Colonel *Ben-*

explain himself, whether he meant any Thing he had then said, to either Captain *Douglas* or his Certificate, which was a good one, that he (Colonel *Mackenzie*) would likely long remember; which Explanation, as insisted upon, he did also give and declared, that he did not mean any Thing, he had then said, to either Captain *Douglas*, or his Certificate: Thereafter Captain *Douglas* found it necessary, as well for the Sake of the Justice, as of the Regularity of the Proceedings of the Court, to move “ to silence Colonel *Mackenzie* for the future, except when on Oath,” which the Court could not but comply with, as a most reasonable Request. Lieutenant-Colonel *Mackenzie* thereupon desired to be heard, or that he should be allowed to give in a Paper; Captain *Douglas* objected thereto, as illegal, but at the same time insisted, that if the Court should think proper to allow Lieutenant-Colonel *Mackenzie*, who was only a Witness, to give in any Writing, he should be indulged with a Copy of it, that he might give it a proper and public Answer: The Court hereupon was cleared for some Time, and when opened again, Captain *Douglas*’s Motion was read, together with Colonel *Mackenzie*’s Request; and the Court gave their Opinion, that they would not suffer the Proceedings of the Court to be farther interrupted, but allowed Colonel *Mackenzie* to give in a Paper in his Vindication, which, according to his Request, [Vide Page 42.] could be only with Respect to his returning Captain *Douglas*’s Certificate: Lieutenant-Colonel *Mackenzie* however thought proper (for very apparent Reasons) to delay giving in any Paper until the 15th of *May*, that the Court were met (Captain *Douglas* being absent) to sign a new Copy of their Proceedings; then Lieutenant-Colonel *Mackenzie* (by the Hands of the Judge-Advocate) presented a Paper to the Court; but, on farther Reflection, the Court judged proper to reject the Paper altogether, in the Manner it appears from the Minute above; Lieutenant-Colonel *Mackenzie*, notwithstanding this Check, did (unknown to Captain *Douglas*) take upon him to transmit the same Paper to the Secretary of the Admiralty, and the Contents thereof, were communicated to the Lords Commissioners of the Admiralty; as appears by Mr. Secretary’s Letter of the 4th of *April* 1765.

dyſhe Commanding Officer.—In Preſence of Captain *Douglas* indispoſed at his Lodgings—The ſaid Commanding Officer inſiſting before he took off the Arreſt, that the Parties ſhould give their Word of Honour, that nothing perſonally ſhould happen betwixt them on the Occaſion—and they were releaſed from Arreſt accordingly.

Immediately after the Sentence againſt the Three Captains was executed (and the Captains gone) Colonel *Bendyſhe* ſhewed the following Letter from the Secretary of the Admiralty, dated the *Day* after their Lordſhips Approval, and directed to Colonel *Bendyſhe*, viz. a Copy as follows:

Admiralty-Office, 7th June 1764.

S I R,

THough my Lords Commiſſioners of the Admiralty, by their Order, which you will receive *herewith*, have ſignified their Approval of the Sentence of *Acquittal* paſſed by the Court-Martial upon Captain *Douglas*, yet their Lordſhips Command me to ſignify their Direction to you to let him know, that he ought, when he found himſelf not able to attend his Duty, to have applied either *through the † Commanding Officer* at Quarters, or *directly* to their Lordſhips, for their Leave in form for his Abſence.

And you are further to let him know, that as it was always their Lordſhips Intention, that the *Prince Edward*, which was fitted out at *Chatham*, ſhould have a Captain of Marines from that Division, and Captain *Wight*, who ſtood firſt upon the Rofter for Sea-Duty, having been found upon Examination unfit for it, and was therefore put upon Half-Pay[§], it then became his (Captain *Douglas*'s Turn ||) to go to Sea; but as the *Prince Edward* failed before he could be ſent to her, and when he was ordered to follow her in the *Tartar*, his ill State of Health prevented his obeying that Order, their Lordſhips expect him to hold himſelf in conſtant Readineſs for proceeding out to the *Prince Edward* by the firſt Opportunity that ſhall offer.

I am, Sir,

Your moſt humble Servant,

Signed PH^{*e*}. STEPHENS.

Captain *Bendyſhe* of Marines at *Chatham*.

† *Vide* Letter 12th November 1763, and Certificate 1ſt December, and Thirty-fourth Article of Marine Regulations, and Twenty-second Art. Fourth Section, Articles of War.

§ But at his own Deſire and Application.

|| *Vide* Copy Rofter.

To

To the first Paragraph it was answered by Captain *Douglas*, that his Conduct was fully justified by the Sentence of a General Court-Martial, and he did *not submit* to have it found fault with in any Manner whatever.—That he no doubt had applied, through the Commanding Officer, for Leave, by his Letter of *November 12th*, and on the 1st of *December 1763*, by Certificate; that the direct Application to their Lordships was prohibited by the Thirty-fourth Article of Marine Regulations, and the Twenty-second Article of the Fourth Section of the Articles of War.—To the second Paragraph an Answer would be given when it appeared in Orders.

S I R,

BE pleased to acquaint my Lords Commissioners of the Admiralty, that as I am still much indisposed, and as by the Orders of the 9th Instant, I am to be in readiness for to go out to the *Prince Edward* at *Jamaica*; at the same Time, I give all due Deference and Obedience to their Lordships Orders; I am under the Necessity to desire, that their Lordships may be pleased to order me two Months Leave of Absence, to take the necessary Steps to re-establish my Health, to enable me to do my Duty.

I am, Sir, &c.

Rochester, June 15, 1764.

W. D.

To Colonel *Bendyshe*,
Commanding the
Marines, *Chatham*.

Extract of an Order from the Lords Commissioners of the Admiralty, dated the 14th June, 1764.

“ AND with respect to that Part thereof, wherein you
“ acquaint them, that Captain *Douglas* is in Orders to
“ embark for the *Prince Edward*; I am to signify their Lord-
“ ships Direction to you, to order him to repair immediately
“ to *Plymouth*, and take a Passage in the *Crown Store-Ship* to
“ the *Prince Edward*, in order to serve on Board her, the
“ Captain

" Captain of the *Crown* being directed to give him a Passage
 " for that Purpose."

A true Copy,

W^m. SABINE Adj^t.

Chatham, 16th June, 1764.

BY Order of the Lords of the Admiralty, Captain *William Douglas* to repair immediately to *Plymouth*, there to embark on Board the *Crown* Store-Ship, for the *Prince Edward*, in order to serve on Board her, as *Captain of Marines*.

W^m. SABINE Adj^t.

Admiralty-Office, 18th June, 1764.

S I R,

I Have laid before my Lords Commissioners of the Admiralty, your Letter *, of *Yesterday's Date*, acquainting them with your having communicated to Captain *William Douglas* their Lordship's Order for his repairing to *Plymouth*, in order to take a Passage in the *Crown* Store-Ship to the *Prince Edward* at *Jamaica*, and of his having informed you, that his Health would not permit him at present to comply with the Order, and inclosing *also* a Letter from him, desiring two Months Leave of Absence, to take the necessary Steps to re-establish his Health, and enable him to do his Duty; and in Return, I am commanded by their Lordships to signify their Direction to you, to take to *your Assistance*, the Surgeon of the *Yard*, and the Surgeon of the *Hospital*, (Commissioner *Hanway* being directed to order them to attend) and to examine strictly into the State of Captain *Douglas's* Health, and to report to their Lordships from under your Hands, whether he is fit for Service or not.

I am, &c.

PH^p. STEPHENS.

Colonel *Bendyshe* at *Chatham*.

Copy, Ph^p. *Stephens*.

* Note, The 18th was *Monday*, consequently no Board Day.

Note, Captain *Douglas* was returned sick, and not able for Duty, weekly at Quarters.

Pursuant

Pursuant to an Order from Thomas Hanway, Esq; Commissioner of His Majesty's Dock-Yard at Chatham, of Yesterday's Date.

WE have attended Colonel *Mackenzie* Commanding Officer of Marines, and examined into the State of Health of Captain *William Douglas*, and find, that by reason of several Gouty Complaints which he has laboured under for some Time past, and still continues, he is not fit for *immediate* Service. Given under our Hands this 20th of *June* 1764.

JN^o. HAMMOND
Surgeon of *Yard*.
E^d. DYNE
Surgeon of the *Hospital*.

Copy, *Php. Stephens*.

Admiralty-Office, 25th June, 1764.

S I R,

I Have laid before my Lords Commissioners of the Admiralty, your Letter of the 20th Instant, inclosing a Certificate of the Surgeon of the *Yard*, and Surgeon of the *Hospital*, that they have examined into the State of Health of Captain *William Douglas*, and find, that by reason of several Gouty Complaints, which he has laboured under for some Time past, and still continues, he is not fit for *immediate* Service; and in Return, I am commanded to acquaint you, that as Captain *William Douglas* has been *incapable* † of Duty for many Months past, and is still unfit for *Service*, their Lordships have put him on Half-Pay, and that Captain *Chudleigh* will be appointed to the Fortieth Company in *his Room*.

I am, &c.

Signed PHP. STEPHENS.

Colonel *Mackenzie* of
Marines at *Chatham*.
Copy, *Php. Stephens*.

† Captain *Douglas* was under his Certificate from the 1st of *December* 1763, and on the 14th of *March* 1764, he commenced Arrest on Demand of a General Court-Martial, by his Letter of that Date, in which he continued until the 9th of *June* thereafter, consequently no Duty could be done.

Captain

Captain *Douglas* desired Major *Sheldon*, who communicated this Letter to him, (Lieutenant-Colonel *Mackenzie* being sick) to take Notice, that he neither *had desired nor did consent to resign* his Company, which he *held by Commission from his Majesty*.

† In the Beginning of *July*, when Captain *Douglas* got to *London*, he was informed, that within two or three Days, after the Date of the above Letter, *Captain Fraser* had got a Commission as Captain of the Fortieth Company of Marines.

—N. B. There were Six other Companies in the Corps that wanted Captains at that Time, As appears by the List, viz. The Thirtieth, Fifty-nine, Sixtieth, Sixty-second, Sixty-fourth, and Sixty-ninth.

N^o 1. Copy of the Letters read before the General Court-Martial, to Captain *Douglas's* General Character as an Officer, as follows :

Letter from Captain *Montagu* to Captain *Douglas*,

Dragon at Portsmouth,
March 29, 1764.

Dear Sir,

THE Contents of your Letter greatly surpris'd me, as it contained a Charge I little expected would have fallen on you ; and without you, are greatly altered the Charge, is very unapplicable to you, whose Behaviour, while with me in the *Ambuscade*, was quite the reverse ; your close and constant Attendance to your Duty, and your Behaviour in every Respect as an Officer, while under my Command, gave me great Satisfaction, and much concerned I was to part with you : On mentioning you to Captain *Clarke* of the *Bristol* in the *West-Indies*, when I came there, he was pleas'd to say many Things in your Favour as an Officer ; I am sorry my Affairs will not permit my attending your Trial,

† Note, Captain *Douglas* can only say he has been informed of this Commission, as he has not seen it, nor is it entered in the Books of his Majesty's Secretary at War, as required by the Second Article of the Eleventh Section of the Articles of War.

to declare in Person my Sentiments about you, but at present it is not in my Power;

I sincerely wish you better Health, and I doubt not but that you will acquit yourself with great Honour.

I am, Dear Sir,

Your sincere and very humble Servant,

J. MONTAGU.

To Captain *Willm. Douglas*
of the Marines.

Nº 2. Letter from Captain Lockhart Ross to Captain Douglas.

*Lifton-Hall near Sudburg,
Suffolk, April 14, 1764.*

Dear Sir,

I Was much surprised to hear that a Complaint was made against you to the Admiralty, and that to, by your Brother Officers, for not attending your Duty; I am convinced they are intire Strangers to you, otherwise they would not have done it, for as I had the Pleasure of commencing an Acquaintance in the former War, I can safely say with my own Knowledge, that you have been on as severe Service as any Officer in the Corps of Marines, and that you have even changed your Ship to go on Sea-Service: The Letter you favoured me with from *Gibraltar*, wherein you mentioned your bad State of Health, and what I was an Eye-witness of, on your coming home, and in *March* last, convinces me that their Complaint is unjust in every respect, and doubt not but you will make it appear so to the Court-Martial and the Board of Admiralty, and have Justice done your Character; I shall be glad to hear from you how it is determined, being with much Esteem,

Dear Sir,

Your sincere and very humble Servant,

JOHN ROSS.

Captain *Douglas*, Marines
at *Chatham*.

No. 3. *Letter from Captain Middleton to Captain Douglas.*

DEAR SIR,

I Have just received your Favour, and am not a little surprised at the Remonstrance you tell me has been made to the Admiralty, so very contrary to the Character I have ever known you bear in the Service.

During the many Years I have had the Pleasure of your Acquaintance, your Character as a Gentleman has been unblemished, and the four Years we served together abroad, was, from what I have often heard my old Friend *Leslie* * say, much to your Honour as an Officer; from my own Observation your Marines were kept in the best Order, and without Flattery to you, Sir, I have often mentioned the Care you took of them, as a Stimulation to others who were not quite in such good Order.

What adds to my Wonder in this Charge is, that on asking Captain *Charles Douglas* lately concerning you, he, I think, told me, you had been a long Time confined with a Rheumatism; and if that Complaint has not very much altered your Disposition, I should never suspect you of Negligence in your Duty.

It is not in my Power to attend at your Court Martial, which I am sorry for, as you seem to wish it; but if at *Chatham*, I could only declare upon Oath, what I now write upon Honor.

When this Matter is finally determined, I shall be glad to hear from you, directed near the *Chappel May Fair*,

Being, Dear Sir,

Your faithfull and obedient Servant,

April 12, 1764.

CHA. MIDDLETON.

To Captain *William Douglas*,
at Mrs. *Webb's*, *Rocheſter*.

* The late Commodore *Leslie*, then Captain of the *Bristol*.

No. 4. *From Commissioner Hanway.**Rochester, May 7, 1764.*

SIR,

AS I have known Captain *Douglas* since the Year 1746, and have ever considered him as a diligent, active, brave Officer, I am sorry to be deprived of the Pleasure of declaring, in Person, to the Court, the very high Opinion I have ever entertained of him; but as my Duty in controlling the Pay of the Yard, will put it out of my Power to attend the Summons I have received, I shall esteem it a singular Favour, if the President and the Court will be pleased to permit this Letter to be publicly read.

I am, &c.

THO. HANWAY.

To Captain *Davidson*,
Judge Advocate.

No. 5. *Letter from Colonel Mellvill, to Captain Douglas.**Derby Street, April 24, 1764.*

DEAR SIR,

HAVING just heard, that the late Representation against you, is to be soon, at your Instance, the Subject of a General Court Martial; I cannot doubt but you have only had Recourse to this Method of Reparation, after finding all other Endeavours ineffectual; and although I cannot presume, on my imperfect Knowledge of this Matter, to conjecture what may be the particular Result, yet I am persuaded in general, it will be intirely such as may be expected from a Court of Discretion, Honour, and Justice, the Prospect of which must afford you the fullest Satisfaction, since a publick Inquiry has proved inevitable.

I am really sorry that a Train of continual Business chains me to *London* till the Moment of my Departure for the *West-Indies*, else I should have had the greatest Pleasure in attending you at *Rochester*, and doing Justice to your Character, as far as my Testimony could avail; but since that Occasion cannot be had, permit me, Sir, (without Offence to your Delicacy) to declare my strong Sense of your Merit, both as a Man of the strictest Honour, and an Officer of Knowledge, Spirit, and Zeal.

The Opportunities I had of personally knowing your earnest and steady Service for some Years, in the *West-Indies*

Indies, confirmed to me, by every Report of your Behaviour, on other Occasions, has given me not only the fullest Assurance in making the above Declaration, but has filled me with Astonishment, that you could have ever fallen under so severe an Imputation, as that of avoiding to do your Duty.

I shall only add, that I am, with sincerest Regard and Esteem,

My Dear Sir,

Your most affectionate and obedient humble Servant,

ROBERT MELVILL.

To Captain *Willm. Douglas*,
of his Majesty's Marine
Forces at *Rocheſter*.

No. 6. Letter from Lieutenant Osborne, of the Royal Navy,
to Captain Douglas.

DEAR SIR,

London, April 21, 1764.

I Was informed at the Admiralty, that the Order for your Court Martial was sent down last Night; but the Time for holding it depended on the Commanding Officer, at *Rocheſter*. This makes it uncertain whether I can be present at it, or not, as I cannot poſſibly be down before *Monday Evening*. I am greatly ſurprised to hear the Occaſion of it, as you are the laſt Perſon I ſhould have thought would have been accuſed of neglecting the Service: This I can certify, that during the Time I had the Pleaſure of being with you in the *Briſtol*, a Lieutenant under the Command of Captain *Leſlie*, Captain *Parker*, and Captain *Clarke*, it was the Opinion of every one, that you was remarkably attentive to your Duty, and it was very evident from the good Order and Diſcipline of your Marines, you was likewiſe reconed a good Ship Keeper, and in every Reſpect a good Officer; therefore, I ſay, from the Knowledge I have of your former Behaviour, the Cauſe of this Court Martial gives me great Surprize; I am with ſincere

Dear Sir,

Your moſt obedient humble Servant,

WADM. OSBORNE.

To Captain *William Douglas*.

N. B. Mr. Osborne appeared perſonally in Court.

N. B. Captain *Douglas* came home from the *West-Indies* in the End of 1759, after being three Years and a Half there; and went on board the *Firm* the Beginning of 1760, out of his proper Tour, and was three Years and three Months in that Ship, moſt of the Time in the *Mediterranean*; and never miſſed a Cruize the whole War.

No. 7. *It appears necessary to lay the following Letters in View according to their Dates; some being capital ones in the Trial, particularly those out of which Extracts were given, though not inserted in the Proceedings; but before the Court.*

Duplicate.

SIR,
AS my Leave of Absence from Quarters expires in a short Time, I find myself under the Necessity to desire the Favour you will be so good as to apply to the Lords of the Admiralty, for a further Prolongation thereof, on account of some particular Business I have to transact in London, and being much indisposed at present; and I hope their Lordships will the more readily grant this Request, as I am at hand to attend Sea Duty, when it comes in proper Turn.

I am, &c.

W. DOUGLAS.

London, Nov. 12, 1763.
 To Col. Bendyshe.

No. 8.

Chatham, Nov. 15, 1763.

SIR,
I Am directed by the Commanding Officer * to acquaint you, that as you are the first Captain for Sea Duty, you are, without Loss of Time, immediately to repair to the Head Quarters of your Division at Chatham, and you'll please to acknowledge (in course of Post) the Receipt of this Letter to, Sir, &c.

Captain William Douglas,
 Marines.

WM. SABINE.
 Lieut. and Adjt.

No. 9.

Duplicate.

SIR,
THIS serves to acquaint you, that I received yours of the 15th, containing Orders for me to repair to Quarters; in answer thereto please to acquaint Colonel Bendyshe, or Commanding Officer, that I have been ill for

* Which Commanding Officer.

this

this *Month past*, and am so at this Time, and *not able, immediately*, to comply with his Directions, but that I shall come to Quarters, *as soon* as my Illness will permit, and I shall be advised that I can *safely do so*.

I am, Sir, &c.

London, Nov. 17, 1763.
To Lieut. Sabine.

W. DOUGLAS.

No. 10.

Chatham, Nov. 18, 1763.

SIR,

I Have received your Letter of *Yesterday's Date*, the Contents of which I communicated to the *Commanding Officer*, who desires me to *acquaint you*, that *unless* you are here before the Post goes out on *Sunday Evening next*, your Letter will be transmitted to the Admiralty to be *laid* before their Lordships. You will please to let me know, in course of Post, if you will *be able* to be here on *Sunday*, as it will prevent the Return being kept back on that Account.

I am, Sir, &c.

WM. SABINE,
Lieut. and Adj. Mar.

Captain *William Douglas*,
of Marines,

No. 11.

Duplicate.

SIR,

I Took the Liberty to trouble you with a Letter dated the 12th, desiring the Favour you would be so good as to apply for a farther Addition to my Leave of Absence; I have never received any Intimation, whither that Letter came to your Hands, and therefore don't know if it has miscarried, or if it has come to hand, whither you made the Application desired, to the Admiralty. I would not trouble you with this, if it was not material for me to know at present, that I may be better able to judge, how to act at this Time.

I have been ill for a Month past with a severe Rheumatism, and dare not, nor am able to venture out: But as I

informed the Adjutant, I will come to Quarters, as soon as my Illness will permit my complying with your Order ;

Extract given out
of this Letter.

In the mean Time, if any Demand is made for Captains, I beg the Favour you will send me in my proper Tour when it comes to that, and I shall answer for the Duty, which, I suppose, you will have no Objection to, though I should not be on the Spot.

I have just received a Letter from the Adjutant, desiring to know if I can be there *To-morrow*. I need only make a Reference to my former Letter, which, if by Rule you transmit to the Admiralty, I beg the Favour you'll take Care, that my Letter of the 12th has been communicated to them also ; that their Lordships may see I applied for Leave in proper Time, for the Reasons contained in that Letter.

I am, &c.

London, Nov. 19, 1763.
To Col. Bendshe.

WILL. DOUGLAS.

Captain Douglas being informed that Colonel Bendshe had left Quarters on the 16th of November, on the 26th thereafter he wrote a Letter to the same Purpose with the above, (and mostly copied from it) to Colonel Mackenzie ; therefore kept no Copy of it ; but it was before the Court Martial.

No. 12.

Chatham, Nov. 27, 1763.

SIR,

COLONEL Mackenzie desires me to present his Compliments to you, that he had received your Letter of Yesterday, and would have answered it himself, but on account of the Weakness of his Eyes ; I am therefore to inform you, that an Answer came from the Admiralty to your Letter of the 12th, granting you one more Month's Leave of Absence, provided you was not near Sea Duty, and could * be spared ; but as, previous to the Receipt of that Letter, you had been ordered to Quarters, you was not acquainted therewith, as we expected your Arrival every Minute, I am now to inform you, that as you are the first Captain for Sea Duty, Colonel Mackenzie expects that you

* At this Time there were neither Ships fitting out, nor Men to send on board at Quarters.

will repair to Quarters *immediately* to take your proper Tour.

I am, Sir, &c.

WM. SABINE,
Lieut. and Adj. Marines.

P. S. You are returned to the Admiralty in this Return, the same as you were in the last. This is, Ordered to Quarters the 15th Instant.

Captain *William Douglas*, Marines.

No. 13.

Duplicate.

London, Nov. 30, 1763.

SIR,

I AM favoured with your Answer to my Letter of the 26th by the Adjutant's Hand, and in Answer thereto, I should certainly have been at Quarters before now, *if my Illness had not hitherto prevented me*, nor can I venture out, *far less go a journey at this Time*, but flatter myself with the Hopes of being there some Time next Week, if I am any better as expected.

As I observe by the Adjutant's Letter, that I am returned, Ordered to Quarters the 15th, without any Notice taken of the Admiralty's additional *Month's Leave*, if I can be spared, &c. I flatter myself, that you have communicated to their Lordships my Letter of the 17th to the Adjutant, desiring him to acquaint Commanding Officer with *my Reasons* for not *immediately repairing* to Quarters, and which exist at this Time the same; *that their Lordships may see the Occasion of my Absence, since the Receipt of the Order to come to Head-Quarters**; and that I have desired you to send me on board in my proper Tour, if any Demand shall be made before I am able to get to Quarters.

I cannot help observing at the same Time, that I should have been glad to have known their Lordships favourable Answer to my Letter of the 12th, sooner, and should have

* It would seem by the Warrant that their L—— had only seen this Extract, without seeing the whole Paragraph, far less the Letter.

flattered myself, that my Letter of the 17th would have prevented any Expectation of my Arrival at Quarters every Minute, for the Reasons contained in that Letter.

I am, Sir, &c. .

WILL. DOUGLAS;

To Col. Mackenzie.

No. 14.

London, December 2, 1763.

SIR,

I Hereby acquaint you, that I have received an Order from the Lords of Admiralty (signed by their Secretary) to repair immediately to Head Quarters, and you need not doubt, but that it will be put into Execution with as great Expedition as my Health will admit of.

In the mean Time I have sent you inclosed a Certificate of Health, from the Physician and Surgeon who attend me, which you may communicate to their Lordships, in the best Manner you may judge proper, taking such Care of the Certificate, that it may be produced, if called for, hereafter. I desire the Favour you will acknowledge the Receipt of this, and for any thing further, I refer to former Letters.

I am, Sir, &c.*

WILL. DOUGLAS.

To Col. Mackenzie, Commanding Marine Forces, Chatham.

No. 15.

Orderly Room, Chatham, Dec. 2, 1763.

SIR,

HAD my Eyes permitted me, I should, if requisite, answered your Letter by my own Hands, therefore to satisfy you, I do by my own Hands acknowledge the Receipt of yours of the 30th of November, this Morning, and also tell you, that your Letter of the 17th of November, and

* Neither this Letter, nor the Certificate inclosed in it, were inserted in the orderly Book.

your Reasons were laid before the Admiralty, notwithstanding which, they have told us, that they ordered you to Quarters, where, it is my Opinion, you should immediately repair to; and there Matters may more properly be reconciled to your Knowledge, than Letters can effect.

I cannot see how I can order any Officer *on board*, who says he is so bad, he cannot come to Quarters; however, this you will probably explain when we see you, the sooner the better.

I am, Sir, &c.

JON. MACKENZIE.

Captain *Wm. Douglas*.

No. 16.

Orderly Room, Chatham, Dec. 3, 1763.

SIR,

AS their Lordship's Orders for your immediate repairing to Quarters, were not communicated to you, through the Commanding Officer at this Place, it would appear very *improper* for your sick Certificate to go from hence; I have therefore sent it to you, as the proper Person *to send it yourself* to the Secretary of the Admiralty for their Lordships Perusal, and your *Justification*.

I heartily wish you soon better Health,

And am, Sir, &c.

JON. MACKENZIE.

Captain *William Douglas*,
London.

No. 17.

Duplicate.

SIR,

Extract given out of this Letter. } I Have received yours of the 2d. giving me the Information * I desired, for which I am obliged to you. My Meaning, in desiring you to send me on board in my proper Tour, is, that the Gentlemen of the Corps shall not be injured by my Illness, which is temporary, that though I am not able to go to Quarters instantly, far less on board Ship, yet in all Probability I will be able, before any Ships can move, as there appears to be no immediate Demand, at present.

* i. e. Sent Letter of 17th to the Admiralty.

I have

I have *also* received yours of the 3d, *returning* the Certificate, with *your Reasons* for so doing, and with Submission, it appears to me, that, as it gives *substantial Reasons* for my yet Absence from Quarters, *though* I have got their Lordships Order, I cannot (conformable to their Instructions) *represent* what relates to common *Course of Service*, but *through the Hands* of the Commanding Officer at Quarters, and for some other Reasons, needless to observe at present; I have *therefore* taken the Liberty to *return, again*, the Certificate to you, which *you are the best Judge* whether you should lay before their Lordships, or keep it till called for, considering, at the same Time, that the Certificate *is directed* to the Commanding Officer at Quarters. *This* I submit to your better Opinion.

And with regard to the *uncommon Occasion* of this Certificate, as I am writing to a military Man, and a proper Judge of these Matters, I beg Leave with all Deference to observe, that the Marine Forces are in an unhoped and disagreeable Situation, when a Captain in his Majesty's Service has *been obliged*, in his own Defence, to take *such a Step*, as to send a Certificate from a Physician and Surgeon, *after he had acquainted* his Commanding Officer with his *Illness*, and which would not have been so much as thought of, far less become necessary, in any Corps of his Majesty's Army (the Marines excepted) and at the same Time so unbecoming the Character of *an Officer and Gentleman*. I am sorry I have so good Reasons to say so much. Excuse the the Badness of the Writing, as it is fatiguing,

And I am, Sir, &c. *

London, Dec. 6, 1763.
Col. Mackenzie.

WILL. DOUGLAS.

* The above is the Letter the Court were pleased to find a *public* Letter.

No. 18.

Orderly Room, Chatham, Dec. 7, 1763.

SIR,
THIS Morning I received yours of the 6th, inclosing your Certificate of Want of Health; which, as *you seem to think*, that its being sent by me to the Admiralty may be *of Service to you*, I have therefore by this Post inclosed it to the Secretary, for their Lordships Perusal.

I fin-

I sincerely wish your Recovery, that you may get Health, and I prevented any farther Epistolary Correspondence, who have no Eyes to spare in Writing, but what absolute Necessity obliges me to undergo†.

I am, Sir, &c.

JON. MACKENZIE.

Captain *Wm. Douglas.*

† Captain Douglas, on this Letter, concludes the Certificate sustained, and Epistolary Correspondence prohibited.

No. 19.

Chatham, March 4, 1764.

SIR,

I Am directed by the Commanding Officer, to send you the inclosed Copy of two Admiralty Orders; that dated the 1st Instant was received Yesterday; the other, dated the 3d Instant, was received this Morning: And it is the Commanding Officer's positive Orders that you forthwith, without Loss of Time, repair on board his Majesty's Ship *Tartar* at *Portsmouth*, agreeable to their Lordships aforementioned Order of the 3d Inst. you being the first Captain on the Register for Sea Duty. You will please to let me know when you embark on board the *Tartar*, and by the Return of the Post to acknowledge the Receipt of this Letter, to

Sir, &c.

WM. SABINE,
Lieut. and Adj. Marines.

To Capt. *Wm. Douglas*,
of Marines, &c. *London.*

No. 20.

Admiralty Office, March 1, 1764.

SIR,

MY Lords Commissioners of the Admiralty observing by the weekly Returns of the *Chatham* Division of Marines, that Captain *William Douglas* hath been absent from Quarters without Leave, ever since the 10th * of November

* Captain Douglas's then Leave did not expire till the 18th.

last,

last, I am commanded by their Lordships to signify their Direction to you, forthwith to give him the strictest Orders to repair immediately to his Duty.

I am, &c.

PHP. STEPHENS.

Commanding Officer of
Marines at Chatham.

A Copy. Wm. Sabine,
Lt. Adjt. Mar.

No. 21.

Admiralty Office, March 3, 1764.

SIR,

MY Lords Commissioners of the Admiralty, having, by my Letter of the 23d of October last, directed the Commanding Officer at Chatham to cause a Captain of Marines of that Division to be embarked on board his Majesty's Ship the *Prince Edward*, then sitting out at that Port; and the said Ship having sailed for the *West-Indies*, without such Officer being embarked, Captain Wight, who stood first upon the Roster, being found after strict Survey to be unfit for any Duty, and therefore * put upon Half-Pay, and Captain William Douglas, who stood next upon the Roster, being absent, and, as it appeared by Certificate inclosed in your Letter of the 7th of December, not in a proper State of Health to embark at that Time, I am commanded by their Lordships to signify their Direction to you, to order the Captain of Marines who stands first in Rotation to embark for Sea Duty, to repair immediately on board his Majesty's Ship the *Tartar* at Portsmouth, whose Commander will have Orders to give him a Passage to his Majesty's said Ship *Prince Edward* at Jamaica, in which last Ship he is to do Duty, as a Captain of Marines, during her present Voyage, or untill he shall be regularly relieved in such Duty.

I am, Sir, &c.

PHP. STEPHENS.

Commanding Marine Of-
ficer, Chatham.

A Copy. Wm. Sabine,
Lt. and Adjt. Mar.

* But at his own Request.

† Vide Roster, No. 40.

No. 22.

London, March 9, 1764.

SIR,

YESTERDAY, *after Three o'Clock*, I received a Letter from the Adjutant, dated the 4th, inclosing Copies of the Lords of the Admiralty's Orders, of the 1st and 3d Instant, communicated to you by their Secretary, and directing you to order the Captain of Marines, *first in Rotation* for Sea Duty on the Roster, to repair immediately on board the *Tartar* to go in her to *Jamaica*, to do Duty on board his Majesty's Ship *Prince Edward*. In Consequence of this, I have also received your Order inclosed, addressed to me, directing me to go to *Jamaica*, in the *Tartar* accordingly, as being the *first Captain on the Roster*, &c. You are very sensible, that I have been for Months past so ill, as not to be able to come to Quarters, far less in a Situation to execute your present Orders, to go to *Portsmouth*, and from thence to *Jamaica*, near five thousand Miles off to a Ship.

I always have, and ever will be, ready to execute all Orders from their Lordships, or any superior Officers, for his Majesty's Service, as far as my Health will permit, and not prevented by occasional Sickness, which is the Case at present, and which has been brought on me, by being on Duty the whole War without Relief; and as it is, at this Time, a just and necessary Excuse, I hope it will also be satisfactory to their Lordships, and every one else.

I am, Sir, &c.

W. DOUGLAS.

To Colonel Mackenzie, commanding the Marines at Chatham.

No. 23.

SIR,

THE Answer to your Order of the 4th, was sent by Friday's Post; and in order that I may be directed how to conduct myself at this Time for his Majesty's Service, I find it necessary to apply to you, that you will be pleased to order the Adjutant to transmit me a certified Copy of the Roster for Sea Duty, of the Chatham Division of Marines, as it stood in July last, when I left Quarters, together with the Alterations that have happened to it since that Time.

My

My Illness having hitherto prevented my Repairing to Quarters, has occasioned me giving you this Trouble.

I am, Sir, &c.

London, March 12, 1764.

WM. DOUGLAS.

To Colonel Mackenzie,
commanding the Marine Forces at Chatham.

No. 24.

Chatham, March 13, 1764.

SIR,

THE Commanding Officer thinks it both unprecedented and unmilitary, for you to desire, or him to grant, what you require in regard to sending you a certified Copy of the *Divisional* Roster, therefore trusts you will excuse the same not being done. There is always a *Sea Duty* Roster of the Division, (when any Alterations happens) sent to the Lords Commissioners of the Admiralty, and there, or when you come to Quarters†, you will be satisfied in every Point you may want to know. In the mean Time the Commanding * Officer desires me to assure you of every Assistance, rationally and properly in his Power, for your Convenience, in forwarding you at this Time for his Majesty's Service, in which I beg Leave to join,

And am, Sir, &c.

WM. SABINE,
Lt. and Adj. Mar.

If your Letters were sent under the Admiralty's Cover, it would save Postage.

To Captain Wm. Douglas,
of Marines.

† Before the Remonstrance Capt. Douglas was under Orders to go to *Jamaica*.

* The Remonstrance against Captain Douglas was sent on the 11th to the Admiralty.

N. B. Captain Douglas did apply for the Roster for *Sea Duty*, not for the "*Divisional*" Roster, as alledged in this Letter.

No. 25.

DR SIR,

I Would have acknowledged the last Letter I was favoured with by your Direction, if I had not been since employed more than my Situation of Health would well admit of, and which was indispensibly necessary. I am sensible, Sir, that you have acted in the Way which appears the best to you; at the same Time I doubt not, if I saw you, but I could give

give the *strongest Reasons* in *Behalf* of the *Request* I made at that Time, and which, you are so good as to tell me, I may be satisfied in, when I come to Quarters, which there is now a certain Prospect of.

I must beg Leave to return you my Thanks for your friendly Expressions, and the Assurances you give me of every thing *rationaly* and *properly* in your Power for my Assistance and Convenience. You may believe it is as much as I wish or desire of any one, and I doubt not the Sincerity of your Expressions, which are agreeable to the Knowledge I have of you.

No Doubt you have, by *this Time*, been acquainted with the Proceedings of Captains *Cockburn*, *Hayes*, (and they say) *Perkins*, against me, (it would be unjust to the rest of the Corps, not to name those Persons) and the Steps necessarily taken by me thereon. It could not mis to surprise me at first, as they are Methods quite unusual, and what I have *never* had any Idea of proceeding from Officers. I can only say, that nothing can be imputed to me, and it must lay on them, who have, in so extraordinary a Manner, made a *public* Matter of it, without following the Rules plainly pointed out to Officers. I had just Time to take some necessary Steps, as the Board were sitting, and upon the very *singular* Remonstrance, when my Letter to their Lordships was delivered. It is needless for me to be more particular on this extraordinary Occasion, as you will be informed soon, and you may be assured of the Propriety of my Proceedings, as well in Justice to myself, as to prevent such improper Behaviour for the future; I will be down to Quarters as soon as possible, in order to settle this Affair, though I am *so ill yet*, that it will be attended with *great Risk* of Health, in my present Situation. I have communicated my Thoughts to you in this private Manner, which I hope you'll take in good part.*

And I am, Sir, &c.

WILL. DOUGLAS,

My best Compliments wait of Mrs. *Mackenzie*.

London, March 25, 1764.

To Col. *Mackenzie*.

* This Letter shows, that Captain Douglas did Colonel *Mackenzie* the Justice to believe, that he had not transmitted the Remonstrance to the Admiralty.

No. 26.

DEAR SIR,

THE Weakness of my Eyes prevents my making Use of them in writing, except where absolutely requisite, and this Misfortune my Correspondents, in general, are pleased to sympathize with me in; and often to accept of my Acknowledgements in the Writing of another Hand: But as the Purport of your Letter of the 25th, which I only received Yesterday, prevents my using an Amanuensis, I am, as well as I can, to thank you for it in my own Hand.

I am truly concerned that any Difference should arise, or subsist, between you and your Brother Captains, (a Thing so improper and unnatural in a military Life). There is not any thing I can doe, to prevent Animosities, or to obviate any Difficulties to all your Satisfactions, but shall be done: And I trust, when you come to Quarters, Things may appear in a better Light than they doe at present. Mrs. Mackenzie thanks you for your Remembrance of her, and joins me in wishing you better Health.

And am, Sir, &c.

JON. MACKENZIE.

*Rocheſter, March 28, 1764.**Capt. Wm. Douglas.*

Note. As Col. Mackenzie desired of the General Court Martial, on the 15th of May, (by a Paper that the Court judged proper to reject as illegal), that all the Letters he either wrote or ordered to be wrote to Captain Douglas, might be appended to their Proceedings: The Court not having it in their Power, if they had been so inclined, to grant this particular Request; Captain Douglas has therefore given all the aforesaid Letters between the 15th of November 1763, and 1st of April 1764. And if Captain Douglas has exceeded Col. Mackenzie's said Desire, by giving his own Letters in return in their Order, it is only a Justice due to himself.

N. B. The Proceedings of Courts Martial are directed, by the Act, to be given, on Demand, at any Time not sooner than three Months after Sentence.

Letters that passed between the Secretary of the Admiralty, and Captain Douglas, together with other Letters, and his Memorial, &c. after he was put on Half-Pay.

No. 27.

London, August 16, 1764.

SIR,

PLEASE to acquaint my Lords Commissioners, that I hereby desire, their Lordships will be pleased to direct, that I may have delivered to me within a Fortnight,
(or

(or to such Persons as I shall authorise to receive it*; on paying what may be found reasonable by their Lordships) a certified Copy of the whole original Proceedings of the General Court Martial, assembled by their Warrant of *April 19*, at *Rocheſter* on the 7th, and continued by Adjournments to the 10th Day of *May* laſt: And alſo at ſigning the Proceedings and Sentence of the ſaid General Court Martial, on *Tueſday* the 15th of the ſame Month, when they were tranſmitted to the Admiralty Office.

I am, Sir, &c.

WILL. DOUGLAS.

On his Maſteſty's Service.
To the Secretary of the
Admiralty.

• *Vide Act of Parliament.*

No. 28.

London, Aug. 23, 1764.

SIR,
I Deſire the Favour to be acquainted, if there is yet any
Answer to my public Letter of the 16th Inſtant, which
I ſent to you that ſame Day, to be laid before their Lord-
ſhips.

I am, &c.

WILL. DOUGLAS.

P. S. Capt. Douglas, near *New-Street, Spring-Gardens.*

To *Philip Stephens, Eſq;*
Secretary of the Admi-
ralty.

No. 29.

MY LORD,
I Hope you will pardon the Neceſſity I find myſelf under,
to acquaint your Lordſhip, that I applied to the Secre-
tary of the Admiralty (by a publick Letter of the 16th of
Auguſt laſt, to be laid before my Lords Commiſſioners)
for a certified Copy of the original Proceedings of the
General Court Martial, held at *Rocheſter* in *May* laſt; and
not receiving any Letter in Answer, after ſeveral Inquiries
being made, I went to the Office, and was told that their

G

Lord-

Lordships had directed them to be given, and that they would be ready in four or five Days : But although I have been waiting, with Patience, for this Month past, and making Inquiries from Time to Time, they are not yet delivered, though above ten Weeks are expired, since they were applied for, agreeable to Act of Parliament.

I have no Doubt but that your Lordship, on inquiring into the Reasons of the Delay, will be pleased to make the Copy of these Proceedings, to be delivered to me, agreeable to the Request contained in my Letter of the 16th of *August*.

I will also be greatly obliged, if your Lordship will be pleased to favour me with a private Audience of yourself, at any Time most proper, on some Business, that it appears very necessary you should be informed of by myself. I hope your Lordship will excuse this Trouble, and I have the Honour to be, with great Respect,

Your Lordship's, &c.

London, October 29, 1764.
Earl of Egmont.

W. D.

No. 30.

MR. *Marsh* presents his Compliments to Captain *Douglas*, and acquaints him, that Lord *Egmont* has given Directions about his having the Copy of his Court Martial, which Mr. *Rogers*, of the Admiralty Office, will have ready by *Monday* next. If Captain *Douglas* wants to see his Lordship, To-morrow is his Levee Day.

Admiralty, 31st of October, 1764.

Captain *Douglas* had an Audience of Lord *Egmont* on the 13th of *December*, and was much indisposed till the Middle of *February*.

No. 31.

London, Feb. 25, 1764.

SIR,

BE pleased to acquaint their Lordships, that the Commanding Officer at Quarters, having thought proper (on Application made to him before I left *Chatham*) to refuse me Copies of the undermentioned Papers, and as they are

are of a publick Nature, that affect and concern me, I am therefore under a Necessity to move, that their Lordships may be pleased to give Directions, that I may have Copies of them.

1st, Order, or Letter, of *June 18*, directing an Examination into the State of my Health.

2dly, Certificate thereupon, of the 20th of *June*, (laid before their Lordships) given by the Surgeons of the Dock and Hospital at *Chatham*.

3dly, Letter, or Order, from the Secretary of the Admiralty, acquainting the Commanding Officer, that their Lordships were pleased to put me on Half-Pay on account of ill Health.

I am, &c.

On his Majesty's Service.

W. D.

To *Philip Stephens, Esq;*
Secretary of the Admiralty.

No. 32.

London, March 25, 1765.

SIR,

AS I have not seen you at the Office, though I have called several Times for that Purpose, I am obliged hereby to desire of you, as Secretary of the Admiralty, that you'll be so good as to inform me, whether the Paper (that was presented by Lieut. Col. *Mackenzie*, on the 15th of *May* last, to the General Court Martial at *Rochester*, and returned again to him by the Court) has been, by any other Way, transmitted to the Office, and the Contents communicated to my Lords Commissioners of the Admiralty. As that Paper appears to have concerned me, it is material for me to know at this Time.

I am, &c.

On his Majesty's Service.

W. D.

To the Secretary of the
Admiralty.

No. 33.

London, April 2, 1765.

SIR,

I Desire you'll be so good as to give me an Answer, to the Inquiry made at the Office, by my publick Letter of the

25th of last Month, and addressed to you as Secretary of the Admiralty.

I am, Sir, &c.

W. D.

To *Philip Stephens, Esq.*

No. 34.

Admiralty Office, April 4, 1765.

SIR,

IN answer to your Letter of the 25th past, desiring to be informed, whether the Paper, (that it appears was presented by Lieut. Col. *Mackenzie*, on the 15th of *May* last, to the General Court Martial at *Rocheſter*, and returned to him again by the Court) has been, by any other Way, transmitted to the Office, and the Contents communicated to my Lords Commissioners of the Admiralty; I send this to acquaint you, that the said Paper was transmitted to this Office by Lieut. Col. *Mackenzie*, with his Letter of the 15th of *May*, 1764, and communicated to their Lordships,

By, Sir, &c.

PHILIP STEPHENS.

To Capt. *Wm. Douglas*,
of Marines, Town.

No. 35.

London, April 8, 1765.

SIR,

BEING informed by your Letter of the 4th Inst. in answer to my Letter of the 25th of *March*, that the Paper (which was presented by Lieut. Col. *Mackenzie*, on the 15th of *May* last, to the General Court Martial at *Rocheſter*, and returned to him again by the Court) has been transmitted by Lieut. Col. *Mackenzie* to the Office, and the Contents thereof communicated to my Lords Commissioners of the Admiralty; I hereby desire you'll acquaint their Lordships, that as it appears by the Minute of the Proceedings of the Court Martial on the said 15th of *May*, that the aforesaid Paper concerned me, I am therefore under a Necessity to move their Lordships, that they may be pleased to give Directions, that I may have a Copy of the same Paper in Question.

I am, Sir, &c.

To *Philip Stephens, Esq;*
Secretary of the Admiralty.

W. D.

No. 36.

No. 36.

London, April 13, 1765.

SIR,

I Desire you'll be so good to let know, whether there is any Answer to the Application made to their Lordships, by my publick Letter of the 8th Instant, and directed to you as Secretary of the Admiralty.

I am, Sir, &c.

W. D.

To Philip Stephens, Esq.

No. 37.

MR. Stephens sends his Compliments to Captain Douglas, and acquaints him, in answer to his Letter of this Date, that there has been no Board since his Letter of the 8th Instant, and when the Lords meet he will read it to them.

Admiralty, April 13, 1765.

No. 38.

MY LORD,

WHEN I had the Honor of an Audience of your Lordship in December last, I presumed to acquaint you, that I would lay a Memorial before my Lords Commissioners of the Admiralty, that they might be fully informed of the State of my Case, and by which I conceived myself agrieved. I have been hitherto prevented doing so, by several good Reasons, which I shan't intrude on your Lordship's Time, to mention at present.

In order that their Lordships may be properly informed of Circumstances, it appears extremely necessary to me, to lay before their Lordships, (along with the Memorial) a Copy of the *Roster for Sea Duty*, of the *Chatham* Division of Marines, together with Mr. Secretary's Letter of the 3d of March, 1764, &c. Therefore the Papers marked No. 1. and 2. are inclosed with the Duplicate of the Memorial, which I have the Honour to send your Lordship.

I flatter myself, my Lord, that the Circumstances attending my Case, set forth in the Memorial, will appear hard in several Respects, and more especially at the particular

lar Time, the more so, if the necessary Good of the Service should be alledged for putting me on Half-Pay; when I have little Doubt, but that it will appear, that, if the Roster is taken, by which ever Method the Rules and Discipline of War, prescribe Duty to be done, the *Prince Edward*, which was the fourth Ship in Orders for a Captain of Marines, could never become my proper Tour of Duty; unluckily for me, I was not able to execute their Lordships Order I was under, and was put on Half-Pay, as set forth in the Memorial, which prevented an early Application for Redress on this Point: And it was needless to trouble their Lordships, till the whole Representation came before them for Consideration.

I hope your Lordship will pardon this great Trouble, and I have nothing more to add, than that it is a sensible Satisfaction to me, to lay my Case before your Lordship, who, I am confident, has equally the Inclination, as the Power, to do Justice to every Individual, under the Command and Protection of his Majesty's Board of Admiralty, at which your Lordship, in so distinguished a Manner presides; I have the Honour to be, with the greatest Respect,

Your Lordship's, &c.

W. D.

London, April 22, 1765.

P. S. The Memorial will be sent in, to the Board, in two or three Days.

To the Earl of Egmont.

No. 39. To the Right Hon. the Lords Commissioners for executing the Office of Lord High Admiral of Great Britain and Ireland, &c.

The Memorial of Captain *William Douglas*, of his Majesty's Marine Forces,

Humbly Sheweth,

THAT the Memorialist served as Lieutenant and Captain in his Majesty's Marine Forces, during the *French War* of 1744, and the late War of 1756, near eleven Years on real Service, mostly abroad, was in several Actions,

Actions, and on all Duties mett with the Approbation of his superior Officers.

That the Memorialist having been on Duty, from *before*, untill the *Close* of the late War, without any Leave of Absence, he contracted an Illness which has afflicted him severely since his Return to *England*, and been occasioned by his close Attendance to his Military Duty in various Climates.

That during the Memorialist's Sickness, on a very peculiar Remonstrance being made against him, he desired to be tried by a General Court Martial, which *acquitted* him with *Honour*, and the said Sentence was approved of by your Lordships, as well as the Sentence that censured his Accusers.

That though the Memorialist was *acquitted* with *Honour*, by the General Court Martial on the 10th Day of *May* 1764, he *remained in Arrest* until the 9th Day of *June* thereafter, that your Lordship's Approval arrived at *Chatham*, the Head Quarters; although the Proceedings and Sentence of the General Court Martial were transmitted to the Secretary of the Admiralty *on the 15th of May*.

That on the 7th Day of *June*, the Day after your Lordships were pleased to approve of the Sentences of the General Court Martial, your Secretary, by Letter to Colonel *Bendyshe*, the *Commanding Officer*, directed him to let the Memorialist know, " That he ought, when he found " himself not able to attend his Duty, to have applied, " either through the Commanding Officer at Quarters, or " directly to their Lordships for their Leave, in Form, for " his Absence."

That though the Memorialist has his Conduct fully justified by the Sentence of a General Court Martial, yet, upon the above Letter, he begs Leave to represent to your Lordships, for your Information, that by his Letter of the 12th of *November*, 1763, to Colonel *Bendyshe*, he applied for a Prolongation of his Leave of Absence, because he was " much indisposed " at the Time, which was farther enforced by his Letter of the 17th, setting forth his Illness in answer to the Commanding Officer's Order of the 15th, to repair to Quarters; both of which Letters *were* in the Admiralty Office, and your Lordships were pleased to give the Memorialist another Month's Leave, as appears by your Secretary's Letter of the 19th the same Month. That in these Circumstances, on your Secretary's Letter of the 30th, same *November*, *retracting* the Memorialist's Leave of Absence, and *peremptorily* ordering him to Quarters, he

thereupon transmitted a proper Certificate, to the Commanding Officer *in Form*, to represent the Necessity for his Absence from Duty, in order that he might obtain the proper Leave, which was all to be done on his Part, while (unfortunately for him) the *direct* Application to your Lordships is *prohibited* by the 34th Article of the Marine Regulations, and the 22d Article of the 4th Section of the Articles of War: The Memorialist thinks it necessary to set forth the above to your Lordship's View, though he is secure in your public Approbation given to the Sentence of a General Court Martial, that *acquits* him with *Honour*.

That while the Memorialist was every Week returned, at Quarters, " Sick and not able to do Duty," on the 9th Day of *June* (along with your Lordship's Approval of the Court Martial), the Commanding Officer received a Letter from your Secretary, directing the Memorialist to be in Readiness to go; and, in a few Days after, another Order for him *actually to set out* for the *Prince Edward* at *Jamaica*; that Ship having been *before* particularly pointed to him, *as if* it had been his *proper Tour* of Duty, because at the Time *he stood first* Captain on the Roster; a Copy of which is herewith laid before your Lordships for Consideration, as, according to the Rules and Discipline of War, and the 35th Article of the Marine Regulations, established by your Lordships, the Memorialist conceives, and is advised, that by the *same Roster* he has been greatly *agrieved*.

That the Memorialist, on the Receipt of the above Order, not being in the Circumstance of carrying it into Execution, as his Illness would not permit him to do Duty, as the most regular Step he could take at the Time, on the 15th of *June*, he applied, through the Commanding Officer at Quarters to your Lordships, *in Form*, for two Months Leave of Absence, to take the necessary Steps to re-establish his Health, that he might be enabled *to do his Duty*.

That your Lordships were not pleased to comply with the Memorialist's Request; but your Secretary, by Letter dated the 18th of *June*, directed his Situation of Health to be examined into, by the Surgeons of the Yard and Hospital at *Chatham*, who gave a Certificate, that on account of the Memorialist's Illness, still continuing, " he is not fit " for *immediate Service*."

That on the 25th of *June* last, your Secretary, by Letter, acquainted the Commanding Officer, that on account of the Memorialist's *ill State* of Health for some Time past, and being still " not fit for *immediate Service*," your Lordships

ships were pleased to *put him* on Half-Pay, and another Captain would be appointed to the 40th Company of Marine Forces, to the great Prejudice of the Memorialist, who neither *desired* nor *consented to resign* his said Company, and which could not *miss to cause Impressions*, unfavourable to the Memorialist at the *particular Time*, when he had been recently tried, though absolved with *Honour*, by the Sentence of a General Court Martial.

That the Memorialist humbly conceives, it is equally *necessary* for him, as *his Duty*, to lay this Memorial before your Lordships for your Information ; as the Confidence he has in your Lordships Justice, makes him apprehend, that several Occurrences (above-mentioned) concerning him, are not fully known to your Lordships, or under *Misrepresentation* ; which, the Memorialist flatters himself, will not be allowed to operate to his Prejudice, as he rests secure, from your Lordships Equity, that your Authority will always be exercised *for the Support* of his Majesty's Officers under *your Protection*, who are *known* and *publicly appear* to have done their Duty, *as required* by Military Subordination and Discipline.

The Memorialist, therefore, in the most respectful Manner, humbly moves, that your Lordships may be pleased to *obtain him a Redress*, that may be *adequate* to the Grievances above set forth, which you will find him well entitled to by his Services, during above *Twenty Years*, he has had the Honor to bear his Majesty's *military Commission*, having always, with Strictness and Fidelity in his Duty, conformed to the Rules and Discipline of War.

All which is submitted.

WILL. DOUGLAS.

London, April 22, 1765.

No. 40.

No. 40. *Copy Roll, or Roster for Sea Duty, (for Captains) of the Chatham Division of Marines, in 1763, and 1764.*

THIS Roster was regulated, by placing the old Captains upon it, as they returned from their respective Sea Duties, *not by Seniority of Commission*, as a Corps new formed; therefore stand for *their second Tour*, having all done a Tour, (or Tours) of Sea Duty.

Copy as this Roster stood in July 1763, when Captain Douglas left Quarters on Leave of Absence.

OBSERVATIONS.

Junior Officer to Capt. W. Douglas. Senior by Commission to Captain W. Douglas.	Captain Kyffin, 1st Tour.	{ Ordered first on Sea Duty, being an old Captain, and his <i>first</i> Tour.
	Wilson, 1st Tour.	{ New come in from Half-Pay, therefore considered as having done no Duty before.
	Carruther's, 2d Tour.	{ Captain, first returned from Sea Duty in <i>December 1762</i> .
	Sir Blaxton Conyers, 2d Tour.	{ Placed on this Roster agreeably to an Admiralty Order, dated <i>June 1, 1763</i> , granting Leave for changing with Capt. Cathcart, and requiring Care to be taken to send him on Sea Duty, "at the Time it would have come to Captain Cathcart's Turn to go to Sea," Captain Cathcart having gone in his Place to <i>Portsmouth Division</i> .
	Robert Douglas, 2d Tour.	{ The 3d Captain returned from Duty.
	Wight, 2d Tour.	{ The 4th Captain returned from Sea Duty,
	Bulstrode, 2d Tour.	{ The 5th Captain returned from Sea Duty,
	William Douglas, 2d Tour.	{ The 6th Captain returned from Sea Duty,
	Cockburn, 2d Tour.	{ The 7th Captain returned from Sea Duty,
	Martin, 2d Tour.	{ The 8th and last Captain returned from Sea Duty,

In 1763.

* This Roster as above, in *July 1763*.

Alterations

*Alterations in the above Roster of July 1763, during Captain
Douglas's Absence from Quarters.*

OBSERVATIONS.

Captain Kyffin,	—Detached on board the <i>Yarmouth</i> .
Wilson,	{ Detached on board the <i>Princess Louisa</i> .
Carruthers,	{ Detached on board the <i>Augusta</i> in September 1763, and in October made a Major.
Sir Blaxton Conyers,	{ Removed from his Place, on this Roster.
Robert Douglas,	{ Detached in place of Major Carru- thers on board the <i>Augusta</i> in Octo- ber 1763.
Wight,	{ November 1, Ordered on board the <i>Prince Edward</i> , at or near <i>Chatham</i> . November 6th, the Order repeated,— prevented by <i>Sickness</i> ; and it appears he requested to retire on Half-Pay. Ordered, by Mr. Secretary's Letter of November the 9th, to be surveyed; and found to be "unfit for any Duty," as appears by Mr. Secre- tary's Letter of the 3d of March 1764.
Bulstrode,	{ November 15th, Ordered on board the <i>Ramillies</i> Guard-ship, no Cap- tain being ordered on board the <i>Prince Edward</i> in place of Captain Wight, who was sick and not able for Duty, from the 1st or 6th of November, and never embarked at all.

N. B. The *Prince Edward* got her whole Detachment at *Plymouth* Divi-
sion; and sailed to the *West Indies* without a Captain of Marines.

Copy as this Roster stood in March 1764.

OBSERVATIONS.

Capt. Wm. Douglas, 2d Tour.	{ March 4, 1764, Ordered to the Prince Edward, now at Jamaica, as first Captain on the Roster. On Mr. Secretary's Letter of March 3d, 1764, observing " Captain Wight, who stood first, &c." and " Captain William Douglas, who stood next upon the Roster, &c." Vide Letter, No. 21.
Cockburn, 2d Tour.	{ 7th Captain returned from Sea Duty.
Martin, 2d Tour.	{ Last Captain returned from Sea Duty.
Capt. Sir Blaxton Conyers, 2d Tour.	{ Moved to this, from his Place on the Roster, as he stood in July 1763, for Captain Cathcart, the 2d returned from Sea Duty.
Perkins, 1st Tour.	{ The 2d Captain come in from Half-Pay, August 12, 1763. Supposed discharged from Sea Duty, in the Neptune, in the End of 1762.
Hayes, 1st Tour.	{ The 3d Captain come in from Half-Pay, December 15, 1762.
Pell, 1st Tour.	{ The 4th Captain come in from Half-Pay, January 27, 1764.
Graham, 1st Tour.	{ New made from Lieutenant, March 12, 1764.
Burt, 1st Tour.	{ New made from Lieutenant, March 13, 1764.

This Roster stood as above in June 1764, (Captain Graham excepted.)

The above Copy was taken from the Roster and Orderly Book, &c. at Head Quarters, and is the Paper marked No. 1. with the Memorial,

The

N. B. There was no Captain of Chatham Division ordered to the Prince Edward, after Captain Douglas was put on Half-Pay; nor was any Captain sent to Sea for two Years after.

The following Queries may not be improper, concerning this Roster, viz.
 QUERE I.—If this Roster had been regulated, according to Seniority of Commission, as a Corps new formed, which is the Captain that was for the fourth Tour of Sea Duty, i. e. the Prince Edward?

QUERE II.—The Captains being placed on this Roster, in the Order they returned from Sea Duty, at the Close of the War, consequently stand for their
 second

The Paper marked No. 2. with the Memorial, contained a Copy of the Secretary of the Admiralty's Letter of the 3d of *March* 1764.—The 2d Paragraph of Captain *Douglas's* Letter of the 6th *December* 1763; in answer to Col. *Mackenzie's* Letter of the 3d; because they are *not inserted* in the *Proceedings of the Court Martial*; also a Copy of Captain *Douglas's* Letter of the 12th of *March*, 1764.

On the 24th, the Day after Lord *Egmont* got the afore-said Letter, Memorial, &c. and not before, Captain *Douglas* received the Copy of Col. *Mackenzie's* Paper, that he applied for on the eighth Inst.

No. 41.

London, April 26, 1765.

SIR,

BE pleased to lay the Memorial, with the two Papers inclosed herewith, before my Lords Commissioners of the Admiralty, for their Consideration.

I am, Sir, &c.

W. DOUGLAS.

On his Majesty's Service.

To *Philip Stephens, Esq.*

No. 42.

Admiralty Office, May 30, 1765.

SIR,

I Have received, and read to my Lords Commissioners of the Admiralty, your Letter of the 26th of last Month, together with your Memorial and Papers, which accompanied it,

And am, Sir, &c.

PHILIP STEPHENS.

Captain *William Douglas*, Marines.

second Tour; which was the Captain for the *fourth* Tour of Sea Duty, i. e. the *Prince Edward*?

QUERY III.—If on the Admiralty Order, of the 3d of *March* 1764, to send a Captain of *Chatham* Division to the *Prince Edward* at *Jamaica*, an Examination had been made into this Roster, by a Court of Inquiry or Court Martial; which was the Captain, that would have been ordered on *that* Tour, to the *Prince Edward* at *Jamaica*, according to the Rules of Discipline?

QUERY IV.—Supposing the Roster *right* as it stood in *July*, 1763, which was the Captain whose Tour the *Prince Edward* had become on the 7th of *November*, 1763? Captain *Wight* being unable to execute a peremptory Order on the 6th, by Reason of Sickness. Vide 35th Art. Marine Regulations.

No.

No. 43.

London, June 13, 1765.

SIR,
 YOUR Letter of the 30th of last Month, did not come to hand till Yesterday; as you acquaint me by it, that you had received, and read to their Lordships, my Memorial, and Papers that accompanied it, be so good as to inform me, on what Day of the Month it was, that they were read to, and laid before, my Lords Commissioners of the Admiralty.

I am, Sir, &c.

W. D.

On his Majesty's Service.

To *Philip Stephens*, Esq;
 Secretary of the Admiralty.

No. 44.

MY LORD,
 I Had the Honor, on the 22d of *April* last, to present your Lordship with a Letter, inclosing a Memorial, and two other Papers, the first being a Copy of the Roll, or Roster, for Sea Duty of the *Chatham* Division of Marine Forces, in 1763 and 1764; and the 2d, a Copy of the Secretary of the Admiralty's Letter, or Order, of the 3d of *March* 1764, &c. Which Memorial, and two Papers, were sent to the Admiralty Office on the 26th thereafter, to be laid in Form before the Board.

As the Change * that happened soon after the Delivery of that Memorial, prevented my giving your Lordship farther Trouble at that Time, and since, and it now appearing a proper Season to remind your Lordship of that Memorial and Papers; I cannot (without failing in what I owe myself) longer delay intruding, by this Letter, on your Lordship, to beg the Favour you will be so good as to inform me, whether I may hope for Redress, for the Grievances complained of by the said Memorial, &c. at the same Time, having no Doubt, but that his Majesty's Board of Admiralty (of which your Lordship is the Head) will, without Prejudice, make Justice the Rule of their Conduct.

* In the Board.

If any farther Information had been necessary upon the Memorial, &c. no Doubt but that your Lordship would have asked me the Explanation; but as that has not been the Case, a proper Redress appears to be the only Thing wanting.

Your Lordship's Penetration cannot miss to observe, that while I am taking the proper Steps to inform, and seek Redress of their Lordships, I have the increasing Grievance, of my full Pay being stopped, since the 25th of *June 1764*, which, of itself, is to me an Injury of a *very* interesting Nature. I hope your Lordship will pardon the Necessity I am under of giving you this Trouble.

And I have the Honour to be

Your Lordship's, &c.

London, Nov. 26, 1765.
To the Earl of *Egmont*.

W. D.

No. 45.

London, Dec. 2, 1765.

SIR,

BE pleased to acquaint my Lords Commissioners, that being informed by your Letter of the 30th of *May* last, that you had received my Memorial of the 22d of *April*, together with the two Papers that accompanied it, and read the same to the *then* Lords Commissioners of the Admiralty: And soon thereafter, his Majesty having been pleased to appoint the present Lords Commissioners in *their room*: I hereby desire, that you will lay my Memorial, dated the 22d of *April* last, together with the two Papers marked No. 1st and 2d, sent along with it (all wrote and *signed* by me) before my Lords Commissioners of the Admiralty, for their Consideration, in order that I may obtain Redress for the Grievances and Injuries set forth by the said Memorial, &c. as their Lordships may find agreeable to the Rules and Discipline of War, and according to Justice.

I am, Sir, &c.

W. D.

On his Majesty's Service.
To *Philip Stephens*, Esq; Secretary of the Admiralty.

No.

No. 46.

London, Dec. 13, 1765.

S I R,

I Desire you will be so good as inform me, whether there is yet any Answer to my public Letter of the 2d Instant, which was delivered at the Office on the 3d, before Eleven o'Clock in the Morning, and directed to you as Secretary of the Admiralty, in order that you might acquaint their Lordships with the Contents thereof.

I am, Sir, &c.

W. D.

On his Majesty's Service.
To *Philip Stephens*, Esq;
Secretary of the Admiralty.

No. 47.

*M*R. *Stephens* sends his Compliments to Captain *Douglas*, and desires he will send him a Copy of the Memorial, and two Papers, mentioned in his Letter of the 2d Instant, in order to his laying the same before their Lordships, the others having *been mislaid* in the Office.

Admiralty, Dec. 18, 1765.

No. 48.

London, Dec. 23, 1765.

S I R,

*B*E pleased to cummunicate to my Lords Commissioners of the Admiralty, that, I having by my Letter of the 2d of this Month, desired you to acquaint their Lordships, that being informed by your Letter of the 30th of *May* last, that you had received my Memorial of the 22d of *April*, together with the two Papers that accompanied it, and read the same to the *then* Lords Commissioners of the Admiralty; and soon thereafter, his Majesty having been pleased to appoint the present Lord Commissioners in *their room*, I thereby desired, that you would lay my Memorial, dated the 22d of *April* last, together with the two Papers marked No. 1st and 2d, sent along with it, (all wrote and signed by me) before my Lords Commissioners of the Admiralty for

for their Consideration, in order that I might obtain Redress for the Grievances and Injuries set forth in the said Memorial, &c. as their Lordships might find agreeable to the Rules and Discipline of War, and according to Justice, &c.

And on the 13th thereafter (no Answer being returned to the said publick Letter) I having, by Letter of that Date, desired that you would be so good as to inform me, whether there was *then* any Answer to my said Letter of the 2d, which had been delivered at the Office on the 3d, and directed to you as Secretary of the Admiralty, in order that you might acquaint their Lordships with the Contents thereof, &c.

And, on the 18th Instant, I having received an unsigned Note in your Name, inclosed in a Cover directed to me, signifying, that you desired I would send you a Copy of my Memorial and two Papers, mentioned in my Letter of the 2d Instant, in order to your laying the same before their Lordships, the others having *been mislaid* in the Office.

In answer thereto, that my Memorial, &c. (of so interesting a Nature to an Officer, signed, and lying for Redress before their Lordships) should be *mislaid in the Office*; is an Intimation, that I cannot avoid receiving with *some Surprise*: And, according to your Desire, I have sent you, inclosed herewith, Duplicates of my Memorial, and two Papers, marked No. 1st and 2d, (all wrote and *signed by me*) in order that you may, *without Delay*, lay the same before my Lords Commissioners of the Admiralty, for their Consideration, as desired by my public Letter of the 2d ult. above narrated.

I am, Sir, &c.

On his Majesty's Service.

W. DOUGLAS.

To *Philip Stephens*, Esq;
Secretary of the Admiralty.

No. 49.

Admiralty-Office, Dec. 24, 1765.

SIR,

I Have received your Letter of Yesterday's Date, inclosing Duplicates of your Memorial of the 22d of *April* last, and of the two Papers which accompanied it, and, in Return,

H

turn,

turn, I am to acquaint you, that I will lay the same before my Lords Commissioners of the Admiralty, at their next Meeting.

I am, Sir, &c.

PHP. STEPHENS.

Captain *Wm. Douglas*,
of Marines.

No. 50.

Admiralty-Office, Jan. 18, 1766.

SIR,

HAVING read to my Lords Commissioners of the Admiralty, your Letters of the 2d and 23d of last Month, as also your Memorial dated the 22d of *April* last, and the Papers marked No. 1st, and No. 2d, which accompanied it; complaining of the Injustice done to you, *by your being put upon Half-Pay**, and praying for Redress; I am commanded, by their Lordships, to acquaint you, that they do not conceive, that any Injustice was done to you, by your being put upon Half-Pay; but that it was rather an Indulgence that you was not put upon Half-Pay sooner, as you had been, for a *considerable Time*, incapable of taking your *Tour of Duty*.

Their Lordships command me farther to acquaint you, that when your Health is re-established, if you are desirous of *serving again*, their Lordships will, upon your making Application for Employment, take the same into their Consideration.

I am, Sir, &c.

(Signed)

PHP. STEPHENS.

Captain *Wm. Douglas*, of
Marines, *Spring-Gardens*.

* The Memorial sets forth no less than six different Grievances.

No. 51.

London, Feb. 17, 1766.

SIR,

BE pleased to acquaint my Lords Commissioners of the Admiralty, that, as I am informed by your Letter of the 18th of last Month, that you had read to their Lordships my Letters of the 2d and 23d of *December* last, and also my Memorial of the 22d of *April* 1765, together with the

The two Papers marked No. 1st, and No. 2d, which accompanied it, (all wrote and *signed* by me); and that you are commanded by their Lordships to acquaint me, that they do not conceive that any Injustice was done to me, by my being put on Half-Pay; but that it was rather an Indulgence, that I was not put upon Half-Pay sooner, as I had been, for a considerable Time, incapable of taking my Tour of Duty :

And farther, that their Lordships command you to acquaint me, that when my Health is re-established, if I am desirous of *serving again*, upon my Application for Employment, their Lordships will take the same into their Consideration :

In answer thereto, I desire you will acquaint their Lordships, that my said Memorial sets forth the following Grievances : 1st, That I was in Arrest until the 9th of June; 2dly, Their Secretary's Letter of the 7th said Month, to the *Commanding Officer* at Quarters; 3dly, The Orders received by him, dated the 7th and 14th of June, to order me to the *Prince Edward* at *Jamaica*, while I stood on the Returns, " Sick and not able for Duty," at Quarters; 4thly, The *Roster for Sea Duty* of the *Chatham* Division of Marine Forces, to which their Secretary's Letters of the 3d of March, and 7th of June, 1764, may be referred; 5thly, Your Letter of the 18th said Month, in answer to the Application by my Letter of the 15th, through the *Commanding Officer*, in Form: And lastly, their Secretary's Letter, dated the 25th same Month and Year, upon the Certificate of the 20th, and acquainting the *Commanding Officer* at Quarters, that the late Board of Admiralty had put me on Half-Pay, because I was " not fit for immediate Service," and that without either my *Desire* or *Consent*; all which my said Memorial more fully explains.

And (as is set forth in your aforesaid Letter of the 18th of January last) their Lordships having been pleased to take Notice of *only the last*; and that they do not conceive that any Injustice was done to me by my being put on Half-Pay, &c. I beg Leave, in the most respectful Manner, to represent to their Lordships, that I humbly conceive my being put on Half-Pay by the late Board of Admiralty, in the Circumstances I was under, either at the Time it was done, or at any Time prior to it, was not only a great Hardship, but contrary to the Right established by his Majesty's military Commission, and the 8th Article of the 14th Section of the Articles of War; and also in Opposition to the Sentence of a General Court-Martial, which, according to the Rules

and Discipline of War, declares, that "Sickness is a sufficient Reason for not attending Duty;" and such Sentence then recently *approved of* by that *same* Board of Admiralty.

As to what is said of my being "incapable of taking my Tour of Duty," their Lordships may please to observe, that I was *under Certificate* from the 1st of *December* 1763, until the 14th of *March* 1764; no Leave of Absence being *given thereupon*, nor such Certificate *reported on the Returns or Muster Rolls* of the *Chatham Division*; that, from my Letter of the 14th of *March* 1764, I was, *of Course*, in Arrest until the 9th Day of *June* thereafter. That I humbly conceive, their Lordships may observe, by the Copy of the Roster, marked No. 1st, along with my Memorial, that by the Rules and Discipline of War, and the 35th Article of the Marine Regulations, established by their Lordships, the *Prince Edward*, which was the *fourth Ship in Orders* for a Captain of Marines of *Chatham Division*, could *never* become my *proper Tour of Duty*; and farther, with Submission, I apprehend, that my *proper Tour of Sea Duty* in that Corps, *is not yet come*.

That, for the Reasons above given, I cannot take my being put on Half-Pay, by the *late* Board of Admiralty, as *any Indulgence*, but, on the *contrary*, as a Grievance and Injury, as set forth in my aforesaid Memorial, hereby referred to: And, therefore, I hereby move, that their Lordships may be pleased to *redress* the *Grievances* complained of, and order that my Company and Full Pay be *restored* from the 25th of *June* 1764, or to grant such *other Redress* as may be *adequate*, there having been *no Delay on my Part*, as appears by *Letters, &c.* in taking all the *necessary Steps*, required by Discipline, to *obtain such Redress* from their Lordships.

I am, Sir,

Your very humble Servant,

On his Majesty's Service.

WILL. DOUGLAS.

To the Secretary of the
Admiralty.

No. 52.

London, March 5, 1766.

SIR,

I Hereby desire, that you will do me the Favour to inform me, whether there is yet any Answer to my public Letter of the 17th of last Month, which was delivered at the Office

Office on the 19th, and directed to you as Secretary of the Admiralty, in order that you might lay the same before their Lordships.

I am, Sir, &c.

On his Majesty's Service.

W. D.

To the Secretary of the Admiralty.

No. 53.

London, March 18, 1766.

SIR,

I Hereby desire you will acquaint my Lords Commissioners of the Admiralty, that I having (in answer to your Letter of the 18th of *January* last) wrote you a public Letter, bearing Date the 17th of last Month, and directed to you, as Secretary of the Admiralty, in order that you might lay the same before their Lordships; and, on the 5th Instant, I having also wrote you another public Letter, desiring you, as Secretary of the Admiralty, to inform me, whether there was then any Answer (from their Lordships) to my aforesaid Letter of the 17th of *February* last; and no Answer to either of the said Letters having yet come to Hand, I am under a Necessity to desire (a second Time) that I may be acquainted, whether their Lordships have been pleased to give any Answer to my said Letter of the 17th of last Month, lying in the Office since the 19th thereafter, for their Consideration.

I am, Sir, &c.

On his Majesty's Service.

W. DOUGLAS.

To *Philip Stephens, Esq;*
Secretary of the Admiralty.

No. 54.

Admiralty-Office, March 18, 1766.

SIR,

HAVING laid before my Lords Commissioners of the Admiralty, your Letter of the 17th of last Month, acknowledging the Receipt of mine of the 18th of *January*, wherein I acquainted you with their Lordships Resolutions upon reading your former Letters and Papers; and representing that you do not conceive your being put upon Half-Pay by the *late* Board of Admiralty in the Circumstances you

was under, either at the Time it was done, or at any Time prior to it, was not only a great Hardship, but contrary to the Right established by his Majesty's Military Commission, the Articles of War, and the Sentence of the General Court Martial held upon you : That for the Reasons given in the said Letter, you cannot take your being put upon Half-Pay as an Indulgence, but, on the contrary, as a Grievance and Injury; and therefore praying that their Lordships may be pleased to redress the same, by ordering your Company and Full Pay to be restored, from the 25th of June 1764, or to grant such other Redress as may be adequate. I am, in Return, commanded by their Lordships to acquaint you, that, upon considering what you have set forth, they do *not see* any Reason to alter their former Resolutions, with which you were acquainted by my Letter of the 18th of January last, as before mentioned.

I am, Sir, &c.

PHILIP STEPHENS.

To Capt. Wm. Douglas,
Marines.

*Extracts from the Marine Regulations, and
Articles of War.*

*Thirty-fourth Article of the Regulations, and Instructions
relating to the Marine Forces, when on Shore, established in
July 1763.*

THE Field Officers are constantly to reside at their respective Head Quarters; and no one of them is ever to be absent therefrom, without Orders or Leave from the Admiralty. All Captains and Subalterns, not otherwise employed on Duty, are constantly to reside at the proper Head Quarters of their Companies, and never to go from thence without the like Leave.

And all *Applications for Leave of Absence*, and also all other *Applications or Representations* of any Kind, relative to the Service, are to be made to the *Commanding Officer of the Division*, at Quarters, who, if they shall appear reasonable,

able, is to forward the same to the Secretary of the Admiralty, and to *make such Observations*, as may be proper to set the Matter in a *full and clear Light*, and to give his Opinion thereupon.

35th Article said Marine Regulations.

The Captains and Subalterns of *each Division respectively*,* are to take their Tour of Duty at Sea, in as constant Rotation as possible; but if, when it comes to any one's Tour, *ill Health*, or Absence by Leave, *shall not admit* of his then going on Ship-board, he is to be the first of his Rank, sent to Sea, *after his Recovery*, or Return to Quarters. Less than a Year's Service on Ship-board, is *not* to be esteemed a Tour of Sea Duty: And, to the End that Sea Duty may be made as equal possible, it is to be understood, that when any Officer serves *two, three, or more* Years successively at Sea, he is to be considered *as having served so many Tours* of Sea Duty, and is *not* to be again sent on Ship-board, till *all* the other Officers of his Rank *on Shore*, of the Division to which he belongs, shall have served an equal Time with him *at Sea*.

The Captains and Subalterns, from Time to Time on Shore, are to take their Tour in a like regular Rotation, on the Recruiting Service, on Hospital Duty, and other Shore Duties.

22d Article of the 4th Section Articles of War.

No Marine Officer is ever to be absent from Quarters, on account of private Affairs, without our Leave; nor is any one, *under the Rank* of a Field Officer, to make Application for such Leave, in *any other Manner* than through the Commanding Officer at Quarters; who, when he acquaints our Secretary therewith, for our Information, is to give his Opinion thereupon.

3d Article of the 13th Section Articles of War.

At every Muster the Commanding Field Officer shall give to the Clerk † of the Cheque, *Certificates signed by himself*, how long such Officers, who shall not appear at the said Muster, have been absent, and *the Reason of their*

* Captain Douglas was ordered to *Jamaica*, to take the Command of a Detachment belonging to another Corps, *viz. Plymouth Division*.

† i. e. Muster Master.

Absence ; in like Manner the Commanding Field Officer shall also give Certificates, signifying the Reasons of the Absence of Non-commissioned Officers, and private Marines, who shall not appear, and how long they have been absent : Which Reasons, and Time of Absence, are to be kept in the Clerk of the Cheque's Office.

4th Article of the 13th Section Articles of War.

Every Officer, who shall be convicted before, a General Court Martial, of having signed a false Certificate, relating to the Absence of either Officer, or private Marine, shall be cashiered.

7th Article of the 13th Section Articles of War.

The Commanding Officer, at each of the Head Quarters, is to transmit to the Secretary of the Admiralty, every Week, (so as to arrive at the Admiralty Office on a *Monday*) an exact Return of *the State* of the Marines of his Division on Shore : And if any Officer shall knowingly make a false Return, he shall be cashiered by a Court Martial.

8th Article of the 14th Section Articles of War.

No commissioned Marine Officer shall be cashiered or *dismissed* from his Majesty's Service, excepting by an Order from his Majesty, or by the Sentence of a General Court Martial, approved by the Lord High Admiral, or Commissioners for executing the Office of Lord High Admiral ; but Non-commissioned Officers may be discharged as private Men, and may, by the Order of a Commanding Field Officer, be reduced to private Centinels.

9th Article of the 14th Section Articles of War.

No Person whatsoever shall use menacing Words, Signs, or Gestures, in the Presence of a Court Martial then sitting, or shall cause any Disorder or Riot, so as to *disturb* their Proceedings, on Penalty of being punished at the Discretion of the said Court Martial.

11th Article of the 14th Section Articles of War.

No Marine Officer or private Man, who shall be put in Arrest, or imprisoned, shall continue in his Confinement more than eight Days, or till such Time as a Court Martial can be conveniently assembled.

A P P E N D I X.

SIR,

London, October 28, 1766.

I Hereby desire you will acquaint my Lords Commissioners of the Admiralty, that Lieut. Col. *Mackenzie* having, on the 15th of *May*, 1764, presented a Paper (in my Absence) to the General Court Martial assembled at *Rochester*, which Paper the Court judged proper to reject as illegal, and directed the same to be returned back again to him; and notwithstanding *this Check*, the said Lieut. Col. *Mackenzie* having taken upon him (unknown to me) to transmit that same Paper to the Admiralty Office, and the Contents thereof, having been also cummunicated by you to the *then* Lords Commissioners of the Admiralty, as appears by your Letter of the 4th of *April*, 1765; and the said Lord Commissioners having taken no Notice of the said Paper, but allowed it to remain in the Office; whereby Part of its evil Intentions may have some Effect hereafter, in case the Proceedings and Sentences of the General Court Martial should not happen to be adverted to.

In the mean Time, I am therefore under a Necessity to move, that their Lordships will be pleased to give Directions, that the Sentence of Acquittal, passed on me by the General Court Martial, may be inserted, verbatim, upon the said Paper, together with the Name of the President of the Court, as set forth in their Proceedings; in order that when the said *peculiar* Paper does appear, at any Time hereafter, in the Office, the aforesaid Sentence of Acquittal may also appear at the same Time.

I am, Sir, &c.

On his Majesty's Service.

WILL. DOUGLAS.

To *Philip Stephens*, Esq;
Secretary of the Admiralty.

SIR,

London, Nov. 12, 1766.

SIR,

I Hereby desire, that you will be so good as to inform me, whether their Lordships have been pleased to give any Answer to my Letter, bearing Date the 28th of last Month, which was delivered at the Office on the 29th, and directed to you, as Secretary of the Admiralty, in order that you might acquaint their Lordships with the Contents thereof.

I am, Sir, &c.

On his Majesty's Service.

W. DOUGLAS.

To *Philip Stephens*, Esq;
Secretary of the Admiralty.

London, Nov. 19, 1766.

SIR,

I Hereby desire you will acquaint my Lords Commissioners of the Admiralty, that I having wrote you a public Letter, dated the 28th of last Month, and directed to you as Secretary of the Admiralty, in order that you might acquaint their Lordships with the Contents thereof: And, on the 12th Instant, I having also wrote you another public Letter, desiring you, as Secretary of the Admiralty, to inform me, whether there was then any Answer from their Lordships, to my aforesaid Letter of the 28th of *October* last: And no Answer to either of the said Letters having yet come to hand, I am under a Necessity (a second Time) to desire, that I may be acquainted, whether their Lordships have been pleased to give any Answer to my said Letter of the 28th of last Month, which was delivered at the Office on the 29th thereafter.

I am, Sir, &c.

On his Majesty's Service.

WILL. DOUGLAS.

To *Philip Stephens*, Esq;
Secretary of the Admiralty.

SIR,

Admiralty Office, Nov. 22, 1766.

SIR,

I Have read to my Lords Commissioners of the Admiralty, your Letter of the 28th of last Month, desiring, for the Reasons therein set forth, that the Sentence of Acquittal, passed on you by the General Court Martial, may be inserted verbatim, upon the Paper transmitted to their Lordships, by Lieut. Col. *John Mackenzie*, on the 15th of May, 1764, together with the Name of the President of the Court; and, in Return, I am to acquaint you, that as Col. *Mackenzie's* Letter and the Paper it inclosed, both refer to the Proceedings and Sentence of the Court Martial, their Lordships judge it unnecessary to comply with what you have requested.

I am, Sir, &c.

PHP. STEPHENS.

Captain *William Douglas*,
of Marines, Spring-Gar-
dens.

London, Dec. 23, 1766.

SIR,

BE pleased to acquaint their Lordships, that as I observe by your Letter of the 22d of last Month, in answer to my Letter of the 28th of October last, that Col. *Mackenzie's* Letter of the 15th of May, 1764, together with the Paper it inclosed (which Paper had been rejected as illegal by the General Court Martial) are alledged to, "both refer to the Proceedings and Sentence of the Court Martial."

In Return, while I beg Leave to remark, that I cannot discover any Reference to the aforesaid Sentence of Acquittal by the certified Copy of that Paper in my Possession; but, on the contrary, Part of it in Contradiction thereto; in the mean Time, I hereby desire of you, as Secretary of the Admiralty, that you will inform me, how Lieut. Col. *Mackenzie* (who was only a Witness before the Court) came to be acquainted with the Sentence of the General Court Martial on the 15th of May 1764, so as to refer to it, when the Sentences of the said Court were not approved* of by the Lords Commissioners of the Admiralty, untill the sixth Day of June thereafter.

I am, Sir, &c.

On His Majesty's Service.

WILL. DOUGLAS.

To *Philip Stephens*, Esq.
Secretary of the Admiralty.

* The Sentences of Courts Martial are not to be divulged till approved of.

SIR,

London, Feb. 11, 1767.

SIR,

AS you cummunicated (to the *then* Lords Commissioners of the Admiralty) the Paper which Lieut. Col. *Mackenzie* took upon him to transmit to you (unknown to me) *after* the General Court Martial had *judged proper*, for obvious Reasons, to reject the same ; and farther, as a necessary Consequence of your Letter to me of the 22d of last *November*, I hereby desire that you will lay the Answer to the aforesaid Paper, inclosed herewith, before my Lords Commissioners of the Admiralty.

I am, Sir, &c.

On his Majesty's Service.

WILL. DOUGLAS.

To *Philip Stephens*, Esq;
Secretary of the Admiralty.

Copy of Colonel Mackenzie's Paper, which the General Court Martial rejected on the 15th of May, 1764.

Some Observations upon several Paragraphs in Captain Douglas's Defence, relative to the Conduct of the Commanding Officer, whilst Captain Douglas was absent from Quarters without Leave.

IT was far from my Intentions to have given any Trouble to this Court, which I was ordered to attend as an Evidence, but Captain *Douglas* having, in his Defence, mentioned several Things which *he imagined* might assist in his Exculpation, and which, *also*, carry an apparent Implication of Negligence, or some *other Defect* in the Commanding Officer, in which Capacity I *acted* during the Time of his Absence from Quarters *without Leave* ; I am therefore under the disagreeable Necessity, with Permission of the Court, to make some few Observations upon these *strained Hints* of this Gentleman's Defence.

As

As his Defence was to be read a *second* Time by his own Desire, I requested the Favour of the Court, that on its Reading, as I had made no written Minutes, I might be permitted to make those short Observations from my Memory, and began with his Letter of the 6th of *December*, which he calls a private one, whether it might be thought so or not; and the Court very justly pronounced † it to be a public Letter. I would in this Manner have proceeded, and laid every Paragraph, as they occurred, of this Speech of Defence, wherein I was mentioned, in such a Light, as, I flatter myself, would have given the Court, and every other unbiassed Person, intire Satisfaction; but Captain Douglas strongly insisting to the Court, that I should not be allowed this Method of Proceeding, and *might tend to hurt* his Defence; therefore, to save Time and Trouble to the Court, and to prevent the *least* Shew of taking away any Weight from Captain Douglas's defensive Suggestions, I prayed Leave of the Court, and it was granted me, to deliver, in Writing, some short Remarks, ‡ as might vindicate my Conduct, and render the Asperity of that Gentleman's Assertions to be of no farther Effect, than grasping at a Twig in Time of Danger; even at the Expence of a Person's Character, who always endeavoured, and thought he acted towards him, with the truest Friendship and Sincerity.

1st, As I did before, so I now particularly pray the Favour of the Court, that every Letter, I ever wrote, or ordered to be wrote to Captain Douglas (which are not many) may, as well as this Paper, be introduced, or appended to the Proceedings of the Court Martial, which, I trust will be complied with, as these Letters greatly tend to making these Remarks so short.

2d, The general Reasons for returning him his Certificate of Health, I have, according to the Manner they were asked, given in Evidence before the Court. I had also friendly Motives for returning it, which were, to endeavour to bring him to Quarters, where every thing would be properly settled; for I found that Letters and Orders, even from the Admiralty, could not have that Effect, when he was absent from his Division; and as those Kind of Certificates were in no Repute with my Lords Commissioners of the Admiralty, I acted in the same Manner with Captain Cockburn, in regard to a Certificate of Health, which he

† This happened to be the Day before.

‡ N. B. Col. Mackenzie only requested Leave of the Court to give his Reasons for returning Captain Douglas's Certificate. Vide 42d Page of the Proceedings.

sent me ; but this Gentleman, *even though sick*, came to Quarters, before his Leave of Absence expired : And as the Admiralty, in their Regulations, leaves it in the Breast of *their* Commanding Officers to judge of the *Rationality* of any Request or Application, made by any Officer, through them, to their Lordships, I must acknowledge, *I saw* no Reason why *temporary* or *occasional* Illness,* (which are the *Names* Captain Douglas calls his Disorder by in his *Letters*) should prevent his coming to Quarters ; but when *he sent me* the Certificate the *second* Time (notwithstanding my Observations † on it to him) ; and it being *accompanied* with so cautionary a Clause, as “ to take such Care of it, as that when called for hereafter it should appear ; ” I then thought it *high Time* to send it to the Admiralty, that their Lordships, from it and the Returns, should determine, according to their good Pleasure ; and thereafter shunned giving Captain Douglas any Trouble by Correspondence, or otherwise, but when obliged to it. And my Letters *will shew*, that my *constant Aim* was to bring him to Quarters, *whereby* the great Trouble, that has since been occasioned in the whole Affair, would have been prevented.

3d, I acknowledge my Ignorance of the Manner in which he mentions, he might have been sent on *Sea Service*, and which he says is *practised* at the other Divisions. This Method is not sufficiently explained by him for me to comprehend it ; and will only beg Leave to add, that as Captain Douglas, in his Defence, has been pleased to make use of the Words, *Course of Service*, and *Customs of War*, that any Method of embarking Officers, not consistent with *stated* Regulations and *Military Order*, must be quite in Opposition to those two *Expressions*.

(Signed)

JON. MACKENZIE.

Lieut. Col.

Copy.

(Signed) PHIP. STEPHENS.

On the Back of the above Paper, by Way of Direction, is as follows, viz.

Some few Observations upon several Paragraphs in Captain Douglas's Defence, relative to the Conduct of the Com-

* N. B. The Word *occasional* did not appear, until Captain Douglas's Letter of the 9th of *March*, above *three* Months *thereafter*.

† There was no Observations made to Captain Douglas, farther than those contained in Col. Mackenzie's Letter of the 3d of *December*. Any Observations made, ought to have been to the Secretary of the Admiralty. Vide 34th Art. Regulations.

manding

manding Officer, whilst Captain *Douglas* was *absent* from Quarters *without Leave*.

N. B. The Sentence passed by the General Court Martial upon Captain *Douglas*, after a Trial of three Days Continuance, viz.

“ The Court Martial, upon due Consideration of the
“ *whole Matter* before them, is of Opinion, that Captain
“ *William Douglas* is not guilty of a wilful Absence from
“ Quarters, and Disobedience to Orders, and that his
“ *Sickness* was a *sufficient Reason* for not attending his
“ Duty; therefore the Court acquits him WITH HONOUR.”

“ RICHD. BENDYSHE, President.”
Colonel.

May 9, 1764.

Answer, by Captain William Douglas, to a Paper (presented to, but rejected on the 15th of May, 1764, by the General Court Martial, held at Rochester for the Trial of the said Captain Douglas, and by which he was acquitted with Honour) by Lieut. Col. John Mackenzie, Major of Chatham Division of Marine Forces, called as a Witness before the Court Martial, and afterwards transmitted privately, by the said Col. Mackenzie, to the Secretary of the Admiralty, with a Copy of the said Paper annexed.

IT is necessary to observe, at entering on this Answer, that Lieut. Col. *John Mackenzie*, though only called as a Witness before the Court Martial, appeared, in the Course of the Trial, to act the Part of a Prosecutor, and did interrupt Captain *Douglas* several Times while on his Defence; and particularly on the 9th Day of *May, 1764*, he interrupted the Proceedings of the Court in a Manner equally indecent as illegal, and was thereupon called to an Explanation, by a Member of the Court, and afterwards by Captain *Douglas*, particularly with regard to Physicians, Surgeons, and Certificates: Which Explanations, as insisted upon, he *did give*, and declared, that he did not mean any thing he had then said, to either Captain *Douglas* or his Certificate. Thereafter Captain *Douglas* found it necessary, as well for the Sake of the Justice, as of the Regularity of the Proceedings

ceedings of the Court, to move, to "silence Col. *Mackenzie* for the future, except when on Oath;" which the Court could not but comply with, as a most reasonable Request: Lieut. Col. *Mackenzie* thereupon desired to be heard, or that he should be allowed to give in a Paper. Captain *Douglas* objected thereto, as illegal; but, at the same Time, insisted, that if the Court should think proper to allow Col. *Mackenzie*, who was only a Witness, to give in any Writing, he should be indulged with a Copy of it, that he might give it a *proper* and *publick* Answer. The Court hereupon was cleared for some Time, and when opened again, Captain *Douglas*'s Motion was read, together with Col. *Mackenzie*'s Request, and the Court gave their Opinion, that they would not suffer the Proceedings of the Court to be *farther* interrupted; but allowed Col. *Mackenzie* to give in a Paper in his Vindication, which, according to his Request, could be, *only*, with respect to his *returning* Captain *Douglas*'s Certificate; Lieut. Col. *Mackenzie* however thought proper (for very *apparent Reasons*) to delay giving in any Paper until the 15th of *May*, that the Court Martial were mett (Captain *Douglas* being *absent*) to sign a new Copy of their Proceedings. Then Lieut. Col. *Mackenzie*, by the Hands of the *Judge Advocate*, presented the aforesaid Paper, of the Tenor hereto annexed, to the Court; but on farther Reflexion, the Court *judged proper* to reject the Paper altogether. Lieut. Col. *Mackenzie*, notwithstanding *this Check*, did (unknown to Captain *Douglas*) take upon him to transmit the same Paper to the Secretary of the Admiralty; and the Contents thereof, were also cummunicated to the Lords Commissioners of the Admiralty.

The Paper is manifestly of a very illegal and malignant Nature, and evidently intended, not only to hurt Captain *Douglas hereafter*; but, in a most injurious and improper Manner, to prejudice their Lordships, by palpable Misrepresentations, *at the Time* they were to have before them, for their Approval, the Sentence of the General Court Martial, which was an *honourable Acquittal* of Captain *Douglas*.

Under these Circumstances, and now that the said Paper has come to his Knowledge (which still lies in the Admiralty Office, as a latent Dagger to wound Captain *Douglas*) he cannot, without failing in Duty to their Lordships, as well as himself, longer omit taking a proper Notice of it. In this View he therefore begs Leave to make some Observations on that same Paper, which he conceives to be of so peculiar

peculiar and unworthy a Tendency, in order that the *mean Artifice*, it abounds with, may be set in its true Light.

As Captain *Douglas's* Defence was made to the intire Satisfaction of the General Court Martial, it would be improper and unnecessary to make any particular Observations thereon: Let it suffice, to remark, that Lieut. Col. *Mackenzie's* Endeavour has been to *mislead*, after the Defence had taken its *just* and *full* Effect; but Lieut. Col. *Mackenzie* ought to have reflected, before he *laid himself open* by such singular Observations as his Paper contains, that what is set forth in Captain *Douglas's* Defence, was not for *his* Information, but that of the Court Martial, *who*, in giving Sentence on Captain *Douglas*, would, no Doubt, form a just Opinion of Col. *Mackenzie's* Candour and Conduct, though he was not *amenable* at that Time to their Judgement. If Col. *Mackenzie* has been brought *into* any Distress, or his Character any Way affected by the *Proceedings* or *Issue* of the Trial, it has been intirely the Consequence of his *own* Conduct, and not, in any Respect, owing to Captain *Douglas*, who was establishing *Facts* in his Defence, that were not only *proper*, but highly *necessary*.

Lieut. Col. *Mackenzie* needed not to have been any Way anxious to explain in his Paper, that he was the Commanding Officer pointed at in Captain *Douglas's* Defence, as he is expressly *named* through the Whole of it; for this *just* Reason, that his Conduct, while temporary Commanding Officer, might *never*, at any Time *thereafter*, be imputed to Colonel *Bendyshe*, the Lieut. Colonel and Commandant of the *Chatham* Division of Marine Forces.

The Expressions made use of by Lieut. Colonel *Mackenzie*, in his Paper, of "Suggeſtions, Assertions, and strained Hints," are equally ill judged, as ill founded, when applied to *Facts* proved before a Court of Justice: *Facts* so established, if they can be called (as Col. *Mackenzie* does affect to call them) a "Twig," are, indeed, one of a stubborn Nature: He is pleased to say, that "he endeavoured, and thought he acted," with the trueſt Friendship and Sincerity towards Captain *Douglas*: And, indeed, while the Circumstances, that *now* appear, lay *concealed*, not only some of his Letters, but his Expressions personally to Captain *Douglas*, were of *such* Sort, as to *induce* him to believe so; but undoubtedly Col *Mackenzie's* Friendship to Captain *Douglas*, as it appeared before the Court, is of a very *peculiar* Nature, and was well observed by the Gentlemen present: He has therefore now, only to lament that his

Endeavours appear to have proved quite the *Reverse* of his own Expectations, whether they are considered of a *friendly* or an *enemical* Nature to Captain *Douglas*.

But to come to Particulars: 1st, His Request is, to have all his Letters to Captain *Douglas* introduced or appended, with his Paper, to the Proceedings of the Court Martial; *Curious indeed!* to request what he well knew the Court had *not* in their Power to grant; but he only wanted to *seem* desirous of it, to those who had *not seen* the greater Part of these Letters, which might have been produced by Captain *Douglas*, in case a Court Martial had been directed to inquire into the Conduct of Colonel *Mackenzie*.

2dly, Lieut. Col. *Mackenzie's* general Reasons for returning a proper Certificate, however plausible, have yet *no* Foundation in the Rules of Military Discipline, especially when accompanied with an Advice contained in his Letter of the 3d of *December*, 1763, in *direct Contradiction* to the 34th Article of the established Marine Regulations, and the 22d Article of the 4th Section of the Articles of War: His *friendly* Motives are of a still more extraordinary Nature; to wit, to endeavour to bring an Officer to Quarters, who by the same Certificate is declared to be *prevented by Sicknefs*. Nothing can better explain the *Friendship* of Colonel *Mackenzie's* Motives, than his own *uncandid*, and even malicious Assertion, that "he found that Letters and Orders, *even from the Admiralty*, could not have that Effect, (viz. of bringing Captain *Douglas* to Quarters) "when he was absent from his Division," especially when it appeared (and that by Col. *Mackenzie's* Letters and Oath) that Captain *Douglas's* Letters, as well as Certificate, representing his Illness as the Impediment, *had passed* through his *own* Hands to the Admiralty, without Representation, or Application, in the Manner laid before the Court Martial.

Captain *Douglas* is confident, that the Lords Commissioners of the Admiralty will not thank Col. *Mackenzie* for his *extraordinary* Observation about Certificates, as he is persuaded their Lordships will give all due Attention to Certificates *properly represented*; and that any Certificates, that they may hold in *no Repute*, will be only those of *such* a Nature, which on being returned by the Commanding Officer, to the Officers who use them, then without Delay, bring such Officers to do their Duty.

He says, he cannot *see* a Reason why "temporary, or "occasional, Illness should prevent Captain *Douglas* coming "to Quarters." At this Rate, nothing but being laid up
for

for Life, can be a *sufficient Reason* in the Eye of Col. *Mackenzie*; Very *humane* and *friendly* indeed! By the Bye, though he alledges the Words *Temporary* and *Occasional*, as a Reason for his returning the Certificate; yet the last did *not appear* until the 9th of *March*, above three Months after; and although these Words could never be used for the *Name* of the Disorder, yet Col. *Mackenzie* could *not miss* to observe, that *it was* particularly set forth in the Certificate, which, being of a *public* Nature to the Commanding Officer, would have appeared with greater Propriety in an Orderly, or other Book, than *partial Extracts* out of Captain *Douglas's* Letters to Col. *Mackenzie*.

Every one must see the Necessity of giving a Caution to have the Certificate *preserved*, which, indeed, was contained in Captain *Douglas's* Letter of the 2d of *December* 1763; but no such Caution is to be found in Captain *Douglas's* Letter of the 6th of *December*, which *accompanied* the Certificate the *second Time* to Col. *Mackenzie*.

Captain *Douglas* acknowledges his intire Ignorance of the Manner of returning Officers absent without Leave, without giving *the Reason of their Absence*, when the same is set forth by Letters and Certificate to the Commanding Officer; as Captain *Douglas* knows no Way of informing their Lordships of the Situation of Officers, but by the Rules of Discipline; and as to what is said in Col. *Mackenzie's* Paper, of his sending the Certificate along with the Return, it is only begging the Question; as Certificates may be *some Way mislaid* and not renewed, while Returns may be *repeated* without any *Reason of Absence* being given, as in the Case of Captain *Douglas*. If Letters shew a constant Aim to bring an Officer to Quarters, when he is prevented repairing there by Reason of Sicknefs, they may also shew a *strong Propensity* to send him far distant, even out of his *proper Tour* of Duty: And if Captain *Douglas's* Certificate *had been inserted* in the Orderly Book, and *properly reported* in the weekly Returns to the Admiralty, and the Reason of his Absence without Leave, had also been given in the Certificates to the Commissary, (*i. e.* the Clerk of the Cheque) at the Musters, according to the 3d Article of the 13th Section of the Articles of War; and if, in other Respects, the Rules and Discipline of War had been duly conformed to; and there had been in *Reality* all the Sincerity professed by Col. *Mackenzie*, the great Trouble that has been occasioned in this whole Affair, would have been *intirely prevented*.

Captain

Captain *Douglas* observes that Col. *Mackenzie* is not over scrupulous in intruding Words of his *own*, instead of Captain *Douglas's*, which *were properly* understood by the Court Martial. Course of Service, and Customs of War, will always be well understood by Officers, who (instead of obtaining *particular* Directions for *obvious Purposes*) conform to established Regulations and Rules of Discipline; which, tho' they *may* allow Officers to be put in Orders (with their own Consent) while sick, for embarking with a Detachment on board of a Ship fitting out at *Quarters*, if in their *proper Tour* of Duty; yet will never admit of their being ordered to repair, without Delay, to a far distant Duty, *out of their Turn*: Such Orders never could be given but in *Consequence* of malicious Misrepresentations.

As the Observations contained in the Paper sent by Col. *Mackenzie*, are in the Admiralty Office, Part of them quite *opposite to the Sentiments* of the General Court Martial, and of a very *evil* Tendency; it must be evident to every unprejudiced Person, that if it should *appear hereafter*, without the *Sentence* being *known*, every one will imagine that Captain *Douglas* had been broke with Disgrace, though he was *acquitted with Honour*.

Captain *Douglas* therefore humbly begs, that the Lords Commissioners of the Admiralty will be pleased to give Directions to have the *Sentence*, passed upon him by the General Court Martial, *affixed* to the *said Paper*, as well as *this Answer*, to remain as a *proper* Explanation for the future.

WILL. DOUGLAS,
Captain.

N. B. This Appendix was not intended to be printed; but, on Consideration, it appears necessary, both on account of the Secretary of the Admiralty's Letter of the 22d of November, 1766, and in case *any* of the Letters or Papers contained in it, should happen to be *mislaid in the Office*.

E R R A T A.

Page 47, in the Note at the Bottom, for *contrived* read *contriving*.—P. 58, l. 3. for *Captain* read *Captains*.—P. 80. The N. B. at the End of No. 26. should be read under No. 27.

Ex. G. M. B.
1/25/02